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A LIFE

OF

ANTHONY ASHLEY COOPER,

FIRST EARL OF SHAFTESBURY.

VOL. II.

Shaftesbury

Engraved by W. Holl from a miniature by Samuel Cooper

A LIFE

OF

ANTHONY ASHLEY COOPER,

FIRST EARL OF SHAFTESBURY.

1667—1683.

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BY

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FORMERLY HER MAJESTY'S MINISTER TO THE ARGENTINE CONFEDERATION AND TO BRAZIL.

TWO VOLUMES.

VOL. II.

London and New York:
MACMILLAN AND CO.
1871.

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ILLUSTRATION.

EARL OF SHAFTESBURY, LORD CHANCELLOR . . . . . *Frontispiece*
(*From a Miniature by* SAMUEL COOPER.

LIFE OF SHAFTESBURY.

CHAPTER XI.

1667—1672.

Buckingham leading minister after Clarendon's removal—Intrigues and quarrels in the Cabinet—Buckingham and Arlington rivals—Ashley sides with Buckingham—Ormond deprived of Lord Lieutenancy of Ireland—Lord Conway's flattering letter to Ashley—Religious toleration and comprehension promoted by Buckingham—Ashley's advice to the King for toleration of Dissenters, naturalization of foreigners, and registration of titles—Efforts of France for a close alliance with England—The Triple Alliance between England, Holland, and Sweden—Secret intrigues of Charles and his Ministers with France—Rival overtures of Buckingham and Arlington to French Ambassador—Secret conference of the King, Duke of York, Lord Arundel of Wardour, Arlington, and Clifford, for establishing Roman Catholic religion in England with aid of France—Negotiations for secret treaty—Quarrel between the two Houses on question of privilege—Lord Ashley suggests the arrangement of the quarrel—Secret treaty with France of Dover, June 1, 1670—Death of the Duchess of Orleans—Buckingham, Ashley, and Lauderdale ignorant of the secret treaty—Buckingham's negotiation for alliance with France against Holland—A new treaty for publication concluded December 31, 1670—Parliament prorogued August 22, 1671—Does not meet again till February 1673—War declared against Holland, March 1672—An altered treaty with France of February 2, 1672—Ashley totally ignorant of design to establish the Roman Catholic religion—Averse originally to French alliance—Ashley received no great presents—Projects of marriage for his son—Letter to Earl of Warwick—Son marries Lady Dorothy Manners—Letters of Lord Ashley to Locke—Lady Dorothy Ashley's letters to Locke—Lord Roos's Divorce and Remarriage Bill—Ashley's correspondence with Morrice—Letter to Dr. Fell recommending Locke—Letter to his bailiff about planting—Shaftesbury's versatile talent.

AFTER the fall of the Chancellor Clarendon, the Great Seal was given to Sir Orlando Bridgman with the

inferior character of Lord Keeper, and the chief power fell into the hands of Buckingham and Arlington. Only a few months before, Buckingham had been in deep disgrace; accused of revolutionary intrigues, he had been dismissed from the Privy Council and deprived of his offices, had fled and for some time skulked to avoid arrest, and had ultimately surrendered himself to the Lieutenant of the Tower. Fickleness or tender remembrance of boyish friendship had led Charles to desist from the prosecution and re-admit him to companionship and favour. He was now for a short time the chief favourite and apparently the leading Minister. His profligate habits, which spoilt the statesman, riveted his personal influence on the King, so long as his favour lasted.

Buckingham gave the tone to the domestic policy instituted immediately after Clarendon's fall; Arlington's experience in foreign affairs and greater steadiness and application enabled him chiefly to direct the foreign policy, though he was often thwarted by Charles's desires and Buckingham's intrigues. Pepys says at this time, on the authority of Sir William Coventry, that the Cabal consisted of Buckingham, Bridgman, Albemarle, and Lord Roberts, the Privy Seal; he does not name Arlington, but this is clearly an omission: both Secretaries of State always attended the Cabinet or Cabal; the other, Morrice, had now little influence, and was not long after displaced. Sheldon, now Archbishop of Canterbury, and Sir William Coventry, who had borne a prominent part in Clarendon's removal, but who was displeasing to the King and to Buckingham,

were no longer called to the Cabal. The Duke of York attended the Cabal, but had no influence. Buckingham ruled all; he, Arlington, and Bristol acted together, but in their hearts they were not friends; common enmity to Clarendon and fear of the Duke of York kept them for a time together.[1] Buckingham for some time had no office, but ultimately an arrangement was made for purchasing for him from Albemarle the office of Master of the Horse. Coventry, who was regarded as of great abilities, and who some had expected would succeed to Clarendon's power, was ultimately got rid of by a quarrel with Buckingham. The circumstances of the quarrel, which Burnet says he did not know, are related by Pepys, and in a despatch of Colbert, the French Ambassador. Buckingham caricatured Coventry in a play, introducing a Privy Councillor at a table full of drawers, ticketed with the names of different countries, and putting many foolish speeches into his mouth; the actor was to mimic Coventry. Coventry, hearing of this before the play was acted, complained to the King, who ordered the play to be brought to him; Buckingham, however, omitted the objectionable scene from the copy shown to the King, and thus obtained permission for the play's being acted; and acted it then was with the Coventry scene. Coventry sent a challenge to Buckingham. Arlington heard of this and reported to the King, who stopped the duel and sent Coventry to the Tower, and deprived him of his place of Commissioner of the Treasury. All men of character and consideration supported Coventry, says Colbert, but the King was

[1] Pepys's Diary, iv. 296, 302; Dec. 21 and 30, 1667.

Buckingham's friend.[1] What a humiliating picture is this of rulers and politics!

Lord Ashley was out of favour after Clarendon's disgrace, for the part he had taken in thwarting the impeachment; he continued to be Chancellor of the Exchequer and a Commissioner of the Treasury, but it was some time before he obtained a leading place in the King's councils. In the rivalry which soon became declared between Buckingham and Arlington, Ashley was with Buckingham. In November 1668, Buckingham told Colbert that he could reckon on Ashley for himself as against Arlington;[2] and in the following February Pepys heard say that Ashley was "turning about as fast as he can to the Duke of Buckingham's side."[3] Ashley acted with Buckingham in urging an investigation of Irish affairs under Ormond's administration, and these two were thought to meditate an impeachment of Ormond.[4] In the spring of 1669 Buckingham succeeded in removing Ormond from his Irish viceroyalty. Pepys mentions Ashley at a cabinet meeting on April 18, 1669, and Marvel names him as influential with the King in April 1670.[5]

Lord Conway, who, while Clarendon was in power and Ormond in security, had been ill disposed to Ashley,[6] was now his eager friend; and a letter is in print from Conway to Ashley of February 28, 1668, forwarding to him papers respecting Irish affairs for his confidential

[1] Colbert to M. de Lionne, March 11 and 14, 1669, in Archives of French Foreign Office; Pepys's Diary, March 6, 1669, v. 132.
[2] Mignet, iii. 58. [3] Diary, v. 108, Feb. 12, 1669.
[4] Orrery's Letters, ii. 323; Carte's Life of Ormond, ii. 346, 370.
[5] Andrew Marvel's Works, i. 419. [6] See p. 301 of first volume.

information, and couched in language of very fulsome praise. This is an extract:

"I should have begged your Lordship to digest every particular of these observations, and give yourself the trouble of comparing them with the accounts, but that I know your quickness of parts will comprehend that at first sight which others cannot do without labour and pains, nor with it neither; and it is with these as with other mathematical demonstrations, that every line and angle is to be observed, to make up a demonstration. My assurance of your Lordship's public and generous spirit gives me confidence that you will interest yourself in this affair, both upon account of the King's service, and for the preservation of the Protestants in Ireland; who, we fear, are designed to be ruined, and that there is more intended than a private gain. I wish this may be carried on without doing a particular prejudice to any man. We are now in Ireland full of apprehensions of the French, and find cause to believe that, to divert our assistance from their enemies, they are creating trouble for us both in Ireland and in Scotland. I cannot, with conveniency, wait on your Lordship till April next; but if I knew that my being there would be serviceable to you, it would hasten me very much."[1]

Religious toleration and comprehension of Dissenters were Buckingham's watchwords, at the outset of his administration, and here he coincided with Ashley's views. One of Buckingham's first acts was to appoint Dr. Wilkins—a pious and learned man, who had married

[1] The whole of Lord Conway's letter is printed in Martyn's Life (vol. i. p. 364). The observations enclosed, furnished by an Irish nobleman, probably Lord Orrery, are not printed by Martyn, and I have not found them at St. Giles's.

Cromwell's sister, and who retained tolerant opinions—to the bishopric of Chester; and a scheme of comprehension was now proposed by Buckingham, Bridgman, Wilkins, and Hale, which obtained the approval of leading divines both of the Establishment and among the Presbyterians,—of Tillotson, Stillingfleet, Burton, Bates, Manton, and Baxter,—but was rejected by the stupid bigotry of Parliament. Once again the efforts of the King for religious toleration led to measures of increased severity against Dissenters, and the Conventicle Act of 1664 having expired in the autumn of 1668, a new one was enacted in spite of Buckingham's efforts in 1670.

A remarkable paper, written by Lord Ashley, has been preserved, addressed to the King probably in 1669, recommending toleration of the public worship of Protestant Dissenters as one of several measures for the increase of population and the improvement of trade, of the value of land, and of revenue. Lord Ashley's opinions in this paper, which may be read at the end of this volume,[1] are consistent with his political action from first to last. He is for indulgence and toleration to the bulk of the Nonconformists; but he excepts Roman Catholics, "in regard the laws have determined the principles of the Romish religion to be inconsistent with the safety of your Majesty's person and government," and he excepts the Fifth Monarchists as "professed opposers of all human government." The special object of this paper is to suggest remedies for the decay of land-rents and of trade, and the subject of religious toleration is introduced incidentally. The

[1] See Appendix I.

late Plague and Fire, says Lord Ashley, had swept away more than a quarter of a million beyond the usual rate of mortality. Englishmen were transporting themselves to the American plantations to be servants; and others "transport themselves to those and other parts to enjoy the liberty of their mistaken consciences." The recovery of rents, he argues, "must be by using all rational and just ways and means to invite persons from foreign parts to supply the present defect, and stop the drain that carries away the natives from us." He suggests that nothing will be effective "without granting that liberty in their religion that every man is fond of." Adopting the results of recent legislation, he would prescribe proof of conformity to the Church of England for any office whatever, and would give liberty to none but "such as shall, without the coercion of law, pay all tithes and duties due from him to the church, parish, and poor." He would, as has been said, except the Roman Catholics and the Fifth Monarchy men; and then he proposes that "all and every other sort of Nonconformists may have liberty to assemble, for the exercise of their own manner of worship, in such public places as the Nonconformists can procure, and that the doors of the meeting-places do stand open to all while they are at their exercise of prayer or teaching." In the same able paper he recommends a general Act of naturalization for the encouragement of foreign artificers and tradesmen to come to settle in England, and "the making all real estates an infallible security to the purchaser or lender, which is provided for by a public register in most parts of Europe." A

Committee of the House of Lords, appointed in October 1669, "to consider of the causes and grounds of the fall of rents and decay of trade within the kingdom," made recommendations similar to those of Lord Ashley's paper. The Earl of Essex was chairman of the Committee; Lord Ashley was a member; and it is easy to see, from the Committee's reports, that Lord Ashley's opinions prevailed in it.[1] That Committee recommended a bill of registers, a bill of naturalization, and "some care and relaxation in ecclesiastical matters." None of these proposals bore fruit. Lord Ashley gave constant attention to questions of trade. Mr. Martyn, writing doubtless on the authority of Stringer, attributes to his advice to the King the appointment in 1670 of a new Council of Trade and Plantations, of which the Earl of Sandwich was made President.[2] After the death of Sandwich, Shaftesbury was appointed President, September 12, 1672, shortly before he was made Lord Chancellor, and he continued to be President of this Council, until its existence was terminated by the Government, probably from ill-will to Shaftesbury, in April 1676.

Buckingham gave much thought to many expedients for realizing an idea of Charles of a divorce from the Queen; and unable to obtain the King's consent to any of his plans, some of which as described by Burnet were revolting, he bethought himself of an attempt to defeat

[1] The Committee was appointed October 19, 1669, and Lord Ashley was added to it by special vote, October 27.

[2] See in Appendix I. an extract from Mr. Martyn's Life, giving an account of Lord Ashley's advice in 1670, evidently derived from a manuscript of his, which I have not found at St. Giles's.

the Duke of York's succession by legitimizing the young Duke of Monmouth.[1] In this plan his chief coadjutor was Charles Howard, Earl of Carlisle; and it is also stated that Lord Ashley co-operated.[2] Some years later, after the fury of the Popish Plot, and during the hot agitation for excluding the Duke of York from succession to the throne, Lord Shaftesbury was the undoubted leader in a like scheme, which then assumed more serious proportions.

The foreign policy of the new administration was early marked by an important event, the Triple Alliance of England, Holland, and Sweden directed against France, the most popular measure of Charles's reign.

Immediately after the conclusion of the treaties of peace at Breda, on July 31, 1667, Louis determined on sending a special envoy to England to negotiate a close alliance, and obtain the co-operation of England in his war against Spain. The envoy selected was the Marquis de Ruvigny, a Protestant, a nephew of the Earl of Southampton by his wife, and a friend of Clarendon. When Ruvigny arrived in England in September his friend Clarendon had fallen, and it was for Arlington and Buckingham to receive and treat with him. Charles immediately offered his mediation between France and Spain. Mediation had been already offered by the Pope and by Holland, and Louis had replied to both, that he was ready to accept an arrangement either on the basis of retaining the conquests he had made in Spanish Flanders or on that of exchanging them for Luxemburg or Franche Comté with the addition of certain forts to strengthen

[1] Burnet's Own Time, i. 452. [2] Macpherson Papers, i. 46.

his northern frontier, and was further ready to consent to an armistice for three months that Spain might choose between these alternatives. Spain had refused these terms, and three months having expired, Louis refused to prolong the armistice, but he declared his readiness to abide by his former offer for three months longer, and he proceeded immediately to overrun the province of Franche Comté. Louis accepted Charles's offer of mediation, and Ruvigny proceeded to endeavour to engage the King of England in the promised close alliance. He found Buckingham ready to aid him; Arlington's inclinations were for Spain, where he had resided, and Holland, whence he had married a wife. Charles replied to Ruvigny's first overtures by avowing his own desire for an intimate alliance with Louis and his preference of France to Spain; but he added that he would have great difficulty in managing his people and Parliament, who feared France, and that he would have difficulties also with several of his Council. As to Arlington, he said that he was not so black as he was painted. Louis instructed Ruvigny to propose an alliance on the following terms: 1. a reciprocal engagement of aid against rebellious subjects; 2. if the war with Spain continued, France to provide England with money and ships for making conquests in the West Indies; 3. English troops to be allowed to serve in Flanders at the expense of Louis, and freedom of levying troops in England.[1] The Parliament met in October, and Buckingham engaged to do everything in his power to promote Ruvigny's object

[1] Louis XIV. to Ruvigny, October 8, 1667, in Mignet, ii. 517.)

on condition that France would make a division of conquests with England, without which he said nothing could be done with the Parliament, and on condition also that Louis should do something for himself. He held secret meetings with Ruvigny in retired houses. Members of Parliament came to Ruvigny at night, without torches, and muffled up in cloaks, to offer him aid, insisting that he should not return their visits. Ruvigny wrote to Louis for a hundred thousand francs to distribute as presents, stating, as French Ministers were then wont to state to their sovereign, that in England money was more potent than eloquence.[1] But Arlington, while seeming to humour Ruvigny, triumphed over these intrigues. In December, Arlington and Buckingham were named Commissioners to treat with Ruvigny on a defensive and offensive alliance with France. About the same time, in concert with the Lord Keeper Bridgman and with the approval of Charles, Arlington opened another negotiation with the Dutch, sending Sir William Temple, then our Resident at Brussels, to the Hague to confer with De Witt. The negotiations with Ruvigny came to nothing; those with De Witt, dexterously and vigorously conducted by Temple under Arlington's instructions, quickly resulted in the Triple Alliance.

Three treaties between England and Holland were signed at the Hague on the twenty-third of January, 1668. The first was a treaty of defensive alliance; the second defined the terms of mediation between France and Spain, in which Sweden was to be invited to join,

[1] Mignet, ii. 516, 525.

and prescribed to the mediators to propose to Spain the acceptance of one or other of the alternatives which Louis had already offered, and to force Spain to accept one or other; the third was a secret treaty by which England and Holland bound themselves to endeavour to bring about peace between Spain and Portugal, and to make war against France if she refused both the alternatives offered. Count Dhona, the Swedish Minister at the Hague, adhered on the same day to the treaty of mediation, subject to the approval of his Government, which was promptly given: and thus the new league obtained the name of the Triple Alliance.

Louis had in the meantime made a secret treaty with the Emperor of Austria for an eventual partition of the Spanish dominions on the death of the young and sickly Charles II.; and this secret treaty, which was not known to any of the Governments of the new Triple Alliance, softened to Louis the unexpected blow of the new coalition. Charles excused himself to Louis by representing that the sole object of the treaty was to make Spain consent to the terms which Louis had offered. The Triple Alliance was quickly followed by a definitive treaty of peace concluded in May at Aix-la-Chapelle, wherein Spain ceded the towns which Louis had conquered in Flanders.

And now soon began another series of intrigues and negotiations to break the new alliance with Holland and unite England with France. These extraordinary intrigues, to most of which Shaftesbury was a stranger, and of which he was indeed the dupe, have been developed and explained more clearly than in any previous

work in the "History of the Negotiations relative to the Spanish Succession," prepared with infinite labour of research and arranged with admirable skill by M. Mignet.[1] In this work, published in 1842, there is a great addition of important materials from the Archives of the French Foreign Office, to those startling revelations from the same quarter, made a hundred years ago by Sir John Dalrymple.

Within a week after the signature of the treaty of Aix-la-Chapelle Charles made overtures to Ruvigny for a close alliance and solicited proposals from Louis. The French king required Charles to make the first proposals. Arlington endeavoured to restrain Charles; the Dukes of York and Buckingham eagerly promoted alliance with France. In July 1668, Ruvigny returned to Paris, authorized by Charles to declare his desire to make a defensive and offensive alliance with France as against all the world, but to state at the same time his fear of making formal proposals lest the Dutch should hear of them. In August Charles wrote to his sister the Duchess of Orleans, begging her to explain to the French Court that, whatever the sentiments of his Ministers might be, he followed his own ideas, and that, even if his Ministers desired other measures, the result would be the same.[2]

In the same month of August Temple was sent as Minister to the Hague by Arlington against the wishes of Buckingham, charged to do everything he could to

[1] The condensed narrative which follows is principally derived from M. Mignet's valuable work, with some assistance from Sir John Dalrymple's "Memoirs of Great Britain and Ireland, &c."

[2] Mignet, iii. 19.

strengthen the Triple Alliance; and M. Colbert de Croissy, brother of the great minister Colbert, arrived in England, as ambassador from France, charged to endeavour to bring about a close alliance with England, making the dissolution of the Triple Alliance a preliminary to all negotiations. Colbert was specially instructed to endeavour to gain Arlington over to French interests, and to stipulate before commencing negotiations that nothing should be told to Holland. Colbert on his first arrival received an unexpected check. He found Charles very cool about the alliance which he had proposed to Ruvigny. He himself, he said, was anxious for a French alliance, but he believed that he was the only man in the kingdom who was. The language of Arlington was still more decided. He told Colbert that an alliance could not be thought of till a treaty of commerce had been made, and that another obstacle was the alliance with Holland; that he himself thought the peace of Breda the most glorious event of his master's reign, that he had always thought so, and would always say so to Charles. Charles now wrote to his sister that there were two great difficulties in the way of the alliance he desired, commerce and existing alliances.[1]

Soon, however, Colbert's hopes revived. In October he was sounded by emissaries both of Buckingham and Arlington, who concurred in fears of the return of Clarendon, through the efforts and influence of the Duke of York; and both these Ministers caused Colbert to be informed of their desire for a French alliance,

[1] Mignet, iii. 50.

and their hopes that Louis would oppose the return of Clarendon to England and to power. Colbert thought that Arlington was only playing with him on the subject of the alliance; of Buckingham's zeal there was no doubt. Buckingham now sent Sir Ellis Leighton on a confidential mission to Paris, charged with letters from himself and from Charles, with the particular object of endeavouring to establish a secret negotiation to be carried on through himself and the Duchess of Orleans, without the knowledge of Arlington or even of Colbert. Arlington, then suspecting an intrigue, tried to conciliate Colbert, and Colbert, angry with Buckingham, then thought Arlington the more promising instrument. He wished, however, much to establish a friendly understanding between Buckingham and Arlington. He was instructed to let Buckingham go his own way and not distrust him, and to keep Arlington in good humour. The Duchess of Orleans at the same time wrote to Buckingham, begging him to communicate frankly with Colbert. Buckingham in his turn had jealousies: Louis sent over in March 1669 the Abbé Pregnani, a Theatine monk, a chemist and astrologer and fortune-teller, and a friend of the Duke of Monmouth, to win Charles's confidence and promote the treaty of close alliance. This gave umbrage to Buckingham; the Abbé, however, did not succeed.[1]

But now another intrigue much more important had been set on foot, to which Buckingham was a stranger, and in which Arlington was deeply engaged, having for

[1] Mignet, iii. 73—80.

its object to establish not only a close alliance with France, but also, with the aid of French money and French soldiers, the Roman Catholic religion in England. On the twenty-fifth of January, 1669, the King held a secret conference, in the Duke of York's house, with the Duke, who had lately embraced the Roman Catholic religion, Lord Arundel of Wardour, a Roman Catholic, and Arlington and Clifford, who were both, if not Roman Catholics, more or less disposed to that religion, and who both ended by adopting it; and on this occasion Charles declared himself a Roman Catholic, expressed his grief at not being able publicly to avow his religion, and, stating that he wished to encounter the difficulties while he was young and vigorous, asked advice as to the means of establishing the Roman Catholic religion in England. It is now well known that Charles was a Roman Catholic before the Restoration, and recent important revelations from Rome have informed us that soon after that event, in 1662, he had sent an agent to Rome, empowered to treat with the Pope for the return of England to the Roman Catholic Church. We further learn from the same quarter, that a natural son of Charles, of whom nothing was before known, born to him in Jersey when he was sixteen or seventeen years old, had in the end of 1667 entered the novitiate of the Jesuit Society at Rome under the name of James La Cloche, and that in August 1668 Charles had written to Oliva, the General of the Jesuits at Rome, to send this young man to England, as he wished to communicate with him on religious matters, and that the

young man had arrived in London in October.[1] It was resolved in the secret conclave of January 25, 1669, to apply to Louis for assistance. None of those now consulted knew of the negotiation lately set on foot by Buckingham. The more serious negotiation now begun was kept secret from Buckingham, and for some time from Colbert. Lord Arundel of Wardour was very soon after sent over to Paris accompanied by Sir Richard Bellings, a Roman Catholic gentleman, the same who had gone to Rome in 1662, charged by Charles to tell the Pope that he was a Roman Catholic, and desired to enter, and to carry England back with him, in to the Pope's fold. Charles now answered for Arlington to the Duchess of Orleans. He proceeded to complete the fortifications of the principal forts and to appoint governors on whom he thought he could rely. He carried duplicity so far as now to tell Colbert

[1] All this has been made known by documents lately published from the Jesuit archives at Rome, by a Roman Jesuit, "Istoria della Conversione alla Chiesa Cattolica de Carlo II., Re d'Inghilterra, cavata do Scritture autentiche ed originali per Giuseppe Boero, D.C., D.G." An interesting account of this important publication was given in the *Gentleman's Magazine* of January 1866. Grave doubts have been expressed by Dr. Lingard as to whether Charles had sincere intention of establishing the Roman Catholic religion, and whether he was not playing with Louis in this matter. (Hist. of England, xi. 336—348.) Mr. Hallam also expresses doubts of Charles's sincerity, and does not consider the extracts given by Dalrymple a conclusive proof of a design to establish the Roman Catholic religion in England. (Const. Hist. ii. 520–2.) Indeed, Dalrymple, whose examination of the French despatches was hurried and incomplete, himself suggested the idea of Charles's insincerity. M. Mignet's work and Father Boero's pamphlet remove all doubt. I print in Appendix II. a translation of a memoir by the French Ambassador, Colbert, of June 1672, which is only slightly referred to by Mignet and Dalrymple, and which I myself copied in the French Foreign Office. This important memoir itself suffices to prove that Charles was really more anxious for the establishment of the Roman Catholic religion in England than for war against Holland.

that Buckingham enjoyed his entire confidence, and to beg him, while negotiating with Arlington the treaty of commerce, to confer from time to time with Buckingham on the greater question of a close alliance. In November the French Government confided the secret to Colbert, who then discussed at length with Charles the great question, which was to precede, establishment of Popery in England or war with Holland. Charles was for beginning with the first; Louis wished to begin with war against Holland. Arlington, who had no inclination for the war, strongly seconded Charles's desire to begin with the Roman Catholic religion. In December 1669 a project of secret treaty was given by Bellings to Colbert. The chief terms herein proposed were 200,000*l.* to be given to Charles by Louis to support his declaration of Popery and 800,000*l.* a year to be given him for the expenses of a war with Holland, which was not to begin till after he had proclaimed the Roman Catholic religion in England, war to be made also on Hamburg, and in a division of conquests or of the Spanish possessions on the death of the King of Spain, England to receive Walcheren, Cadsand, l'Ecluse, Minorca, and all the Spanish possessions in America. Louis declared these terms inadmissible.

Parliament met in February 1670. There had been a short session in the previous autumn, which had been closed, like the preceding one in 1668, in consequence of a long-protracted and violently-waged quarrel of privilege between the two Houses. The quarrel arose out of a complaint made to the House of Lords by a merchant

named Skinner against the East India Company, which was heard and decided by the Lords. The decision was against the Company, who appealed to the Commons; and the Commons denied the right of the House of Lords to act as judges in the first instance, the case not having come before them by appeal. The dispute between the two Houses was terminated on the meeting of Parliament in February 1670, by the adoption of a proposal made by the King that all entries in the Journals of both Houses as well as in the books of the Privy Council and Exchequer relating to the question should be erased, and the question not be renewed. This successful expedient is said to have been suggested to the King by Lord Ashley.[1] After this a new Conventicle Act was passed, and Charles obtained a further supply. The King and Parliament were once more on good terms; and Charles hoped thus to be able to get better conditions in his pending secret negotiations with Louis.

A visit from the Duchess of Orleans to her brother Charles was arranged to take place at Dover in the end of May. The tortuous negotiations were brought to a successful close before this visit, and a treaty was signed at Dover on the first of June, 1670, during the Duchess's stay at Dover. This treaty was signed by Colbert on the part of France, and by Arlington, Arundel, Clifford, and Bellings on the part of England. The principal provisions were as follows. 1. Charles, being convinced of the truth of the Roman Catholic religion and resolved to declare himself a Roman Catholic, and

[1] Macpherson Papers, i. 55.

perceiving the possibility of disturbances in England in consequence, was to receive two millions of francs from Louis, one million three months after the exchange of ratifications and the other million three months later, and to be aided by him besides, if necessary, with six thousand foot-soldiers to be raised, and to be maintained so long as they were wanted, at the expense of Louis. 2. Louis bound himself to preserve peace with Spain and observe strictly the treaty of Aix-la-Chapelle, and Charles was therefore free to maintain that treaty in conformity with the engagements of the Triple Alliance. On the death of the King of Spain without issue, Charles engaged himself to assist Louis with all his forces by land and sea to make good his claims on the Spanish monarchy; the portion of the Spanish possessions to be granted to England in return for her assistance to be settled when the occasion for the assistance arose. In the meantime the two Kings bound themselves to make no treaty with reference to the future claims of France on Spain with any third Power, without the other's consent. 3. The two Kings agreed to make war together with all their forces against Holland, and neither was to make a treaty of peace, truce, or armistice without the other's consent. After Charles had declared his change of religion, it was left to Louis to fix the time for declaring war, and Charles undertook to declare war at the same time. All previous treaties of France or England with the States-General were annulled, except that of the Triple Alliance for guaranteeing the treaty of Aix-la-Chapelle. Louis was to undertake the war by land, Charles sending and maintaining six

thousand men, commanded by a general who should obey Louis or his commander-in-chief. Charles, on the other hand, undertook the burden of the war by sea, Louis sending thirty ships of war and ten fire-ships, and maintaining them at his expense. The English fleet was to consist of at least fifty large ships and ten fire-ships; the French auxiliary squadron to be commanded by a vice-admiral or lieutenant-general, who would obey the Duke of York in virtue of powers given to him by the two Kings, each for his own ships. 4. Louis was to pay Charles three millions of francs a year as long as the war lasted. As to conquests, England's portion was to be the islands of Walcheren and Cadsand, and the port of l'Ecluse. 5. Three secret articles were appended to the treaty, one of which provided that, if Charles was prevented by the necessities of his affairs from sending as many as six thousand soldiers, Louis would be content for a time with four thousand. The treaty was ratified by both Kings on the fourteenth of June by mutual letters sealed with their private seals.[1]

During her stay at Dover the Duchess of Orleans used all her arts to endeavour to persuade Charles to postpone the announcement of his change of religion till after the war, and she nearly persuaded him. As the time approached indeed for declaring his new religion, the dangers and difficulties impressed him more, and he was now not indisposed to begin with the war. The Duke of York had been left behind in London, where

[1] This treaty was first published by Dr. Lingard in his History of England, from Lord Clifford's papers. It is printed in M. Mignet's work (vol. iii. p. 187).

fears were entertained of a disturbance arising out of the execution of the Conventicle Act; in his absence the Duchess of Orleans found it easier to prevail on Charles, and when the Duke of York arrived at Dover he found, to his great annoyance, the postponement of the religious enterprise an almost settled resolution. Within a week after her return to France the Duchess of Orleans was a corpse. There were suspicions of poison, and it appears that she herself died in the belief that she had been poisoned; but a medical examination proved the suspicions to be unfounded.

It is clear and incontestable that Lord Ashley had no part in, and no knowledge of, the treaty of Dover, and what follows will make it clear that he had no suspicion of it.

Buckingham, visiting Colbert in July to excuse himself for violent language which he had used in the belief that the Duchess of Orleans had been poisoned, again urged the necessity of a treaty of close alliance between France and England. Colbert pressed him in reply to make some proposals. Buckingham afterwards went to Arlington, told him there was no time to be lost, and suggested that they should have a conference with Lauderdale and Ashley. Arlington consented, and a conference was held the next day between these four at Arlington's house. Arlington stated the reasons for an union with France and the opposing reasons for an union with Holland. Buckingham argued strongly for France, and was supported by Lauderdale. Ashley, without opposing, said that the matter was of too great importance to be decided on hastily. At the conclusion

of the conference, Buckingham took Arlington aside, and suggested to him that as Louis had sent the Marshal de Bellefonds to condole with Charles on the death of his sister, this compliment might be properly returned, and he proposed that he himself should be sent to France, and that he might then ascertain Louis's intentions and perhaps settle a treaty. This proposal Buckingham communicated to Ashley, but not to Lauderdale. Arlington thought it better not to enter into this plan with too much ardour, as that might excite suspicions in Buckingham's mind, while delay would stimulate his zeal; he also wished to consult Colbert. But both Charles and Arlington thought it desirable to engage Buckingham in a new negotiation, and so obtain the support of Ashley and Lauderdale to an alliance with France against Holland. The intended declaration of the Roman Catholic religion was to be kept secret from them. Colbert strongly recommended this plan to Louis, urging that the support of these statesmen would ensure an early declaration of war. Louis suggested that there would be a difficulty hereafter in making known to them that they had been deceived, but he acquiesced, and Buckingham was sent to Paris. There of course everything was easy. Louis explained to Buckingham his great desire to conclude an alliance with Charles, taking care of course not to mention either the treaty already concluded or the proposed establishment of the Roman Catholic religion in England, and he begged his aid to persuade Charles. He gave Buckingham hopes of the command of the auxiliary English troops, and he gave a pension of

400*l.* a year to Buckingham's paramour, Lady Shrewsbury. Buckingham returned to England in September with a project of treaty. It was now thought necessary to moderate his zeal, the better to manage Ashley and Lauderdale. Louis thought that the negotiation for this mock treaty might occupy a fortnight: his plan at present was to begin the war in the spring of 1671, and he wished Charles to postpone the declaration of his religion till after the declaration of war, lest their chances with the German Protestant princes, and especially with the Elector of Brandenburg, might be prejudiced. Charles was quite disposed to agree in postponing the declaration of religion, but he doubted whether he could be ready for war so early. His treasury was exhausted, and he needed and hoped for an additional supply from Parliament, which was to meet in October. But the time for payment of the first instalment under the treaty of June 1, 1670, was at hand; and as this could not be paid without the knowledge of Buckingham, Lauderdale, and Ashley, it was necessary to hasten the mock treaty. Louis suggested at this time to Charles that he should treat with the Pope as to the conditions on which the Roman Catholic religion should be established in England, and strongly recommended that Charles should employ a French negotiator, the Bishop of Laon, who might more easily obtain good conditions, and might also avoid compromising him. But Charles wished to send an English priest, who was at that time at the College of St. Omer; the Pope was dying, and Charles thought it better to postpone the mission. Louis abstained

from pressing it. He had now found that he himself would not be ready for war in the spring of 1671, and he wished to postpone the declaration of war for a year. But Colbert was instructed not to inform Charles of the intention of Louis to defer the war for another year; he was to let delay come, as Louis thought that it certainly would come, from Charles. Strange to say, however, Charles was now eager to begin in 1671. Meanwhile delays arose in the negotiation of the new treaty. Buckingham, Ashley, and Lauderdale proposed certain changes; they wished to add the islands of Goree and Worne, and to the surprise of Colbert, Charles supported them, and Arlington seemed to waver. These difficulties, however, were got over by mutual concessions. Louis now instructed Colbert to propose to Charles to put off the war till the spring of 1672, putting the postponement on the ground of the necessity of engaging the German princes, and of his having yet heard nothing of the declaration of the Roman Catholic religion, which was to precede. Charles and his Ministers objected. The equipment of the fleet was proceeding. Parliament had given 1,300,000*l.* for payment of debts, and 800,000*l.* to equip a fleet. But after a little opposition Charles agreed to the postponement of the war; and Louis then made an attempt to postpone the payment of the sum of money promised in consideration of Charles's declaration of the Roman Catholic religion, and he also endeavoured to induce Charles to fix the time for this declaration. Buckingham now wrote to Louis complaining of all the delays, and insinuating that Arlington

and Colbert had agreed to break off the treaty. Louis then withdrew his last two requests, and the mock treaty was ready for signature. Louis had wished that the Commissioners of the treaty of Dover of June 1 should enter into a secret agreement that the present treaty was to be null and void, except where it differed from the former one; but Charles objected to this. He considered that this would be the only treaty that could be published. It was signed on the thirty-first of December, 1670, by Colbert for France, and by Buckingham, Arlington, Lauderdale, Ashley, and Clifford for England. This new treaty represented the two millions of francs, to be given in consideration of Charles's declaring himself a Roman Catholic, as an addition to the first year's French subsidy for the war; and nothing was said in it of French aid with a military force to subdue rebellion in England. It fixed the beginning of April or end of May 1672 for the beginning of the war against Holland. Charles was with some difficulty persuaded to sign at the same time a declaration that the 2,000,000 francs given in the new treaty towards Charles's preparations for war, one million to be paid a fortnight after the ratification, one million three months later, were really given in view of his declaring himself a Roman Catholic, as had been agreed by the treaty of June 1.

Parliament had met on October 24, and then the Lord Keeper Bridgman, speaking for the King but himself ignorant both of the treaty of June 1 and of the negotiations then proceeding, urged on Parliament further supplies to equip a fleet rendered necessary by

increased navies of France as well as of Holland. The Commons responded to this appeal, and several money bills were passed. One for raising duties on foreign commodities imported was obstructed by an attempt in the House of Lords to reduce some of the charges. This attempt to alter a money bill was resented by the Commons as an encroachment on their privileges; the privilege dispute could not be reconciled, and the Parliament was prorogued in April with the loss to Charles of the supply which this bill had promised. Buckingham, Ashley, and Lauderdale had joined in the endeavour in the House of Lords to reduce the duties, which led to the loss of the bill; and Charles is reported by Colbert as having blamed them in rough language for their proceeding.[1] The Parliament was prorogued on the twenty-second of April, 1671, until the sixteenth of April of the year following; it was then further prorogued, and did not meet again until February 1673. Thus there was a cessation of parliament for all but two years. During this long interval, war was opened by England and France against Holland in March 1672. The two millions of francs which were really the price of Charles's promised declaration of the Roman Catholic religion had in the meantime been paid; and payment was made by Louis in the end of January 1672, before the war began, of the first quarterly instalment of the promised annual subsidy of three million francs. Charles had been in the meantime relieved by Louis from the obligation of providing his promised auxiliary land force of six thousand men, during the first year of the war.

[1] Dalrymple's Memoirs, ii. 88.

The treaty of December 31, 1670, was replaced by a substantially similar treaty, signed on the second of February, 1672, by the same Commissioners, Colbert for France, Buckingham, Lauderdale, Arlington, Ashley, and Clifford for England. The object of this new treaty was doubtless to prevent its being known for how long a time England and France had been mutually engaged for war against Holland, and especially to hoodwink the many Ministers and Privy Councillors who had not been consulted or trusted.[1]

It is very clear from the above narrative that Lord Ashley was not in the secret of Charles's engagement to establish the Roman Catholic religion, and that he is responsible only for alliance with France for war against Holland. It will also have been seen that when his support of a French alliance was thought of importance and first sought for, he was expected to be ill disposed, and that he in fact showed reluctance. When Arlington first conferred with Buckingham, Ashley, and Lauderdale on the project of an alliance, Colbert says that Ashley alone withheld immediate approval, declaring the matter too important to be hastily decided.[2] When Buckingham returned from Paris in September 1670, having settled as he thought everything with Louis and eager to finish at once, Louis and Colbert feared that Buckingham's zeal might do mischief with Ashley and Lauderdale, who were not so foolish as Buckingham and might

[1] The fact of this treaty of February 1672, made in substitution of that of December 31, 1670, was made known by M. Mignet (vol. iii. p. 700), but Dr. Lingard had acutely conjectured from Dalrymple's imperfect extracts of correspondence, that another treaty must have been made at this time. (Hist. of England, xii. 6.)

[2] Mignet, iii. 216; Dalrymple, ii. 69.

have suspicions.[1] Mr. Martyn states, of course on the authority of Stringer, that when the Duke of Buckingham went over to France, Ashley wrote a letter urging him not to negotiate a treaty of alliance, and that this letter was put into cypher by Stringer.[2] Mr. Martyn further states that Ashley endeavoured to dissuade the King from proceeding with the treaty, and that, finding himself unable to do that, he then determined to endeavour to make it as favourable to British interests as possible. Two points to which he appears to have devoted his attention with this view, were the reduction of the number of ships to be provided by France for joint operations, and an increase in the number of places to be given to England in a division of conquests. Buckingham, when he defended himself before the House of Commons in 1674, stated that he was of opinion that France should not be encouraged to become powerful at sea, and that he had endeavoured to obtain from the French money instead of ships. "I endeavoured to have money instead of ships; at my first audience the French King was willing to comply with it, but after some time, by letters and returns from France, it was altered."[3] Martyn states that Ashley induced the King to instruct Buckingham to give up the treaty if the French insisted on supplying ships.[4] Burnet says that Shaftesbury had told him that he wrote a peremptory instruction from the King to

[1] "Le traité simulé devait passer sous les yeux du Comte de Lauderdale et d'Ashley, qui n'avaient pas l'étourderie du Duc de Buckingham, et il était à craindre que trop de précipitation ne leur inspirât des soupçons." (Mignet, iii. 222.)

[2] Life, i. 399.

[3] Parl. Hist. iv. 643.

[4] Life, i. 400. Mr. Wyche also in the MS. Vindication.

Buckingham in Paris "to give up all treaty, if the French did insist on sending a fleet to our assistance," and that Shaftesbury blamed Buckingham for not doing as he had been instructed. Burnet also says that Buckingham had protested to him that he never consented to the French fleet's coming into our seas and harbours.[1] The Duke of Buckingham declared in the House of Commons: "Lord Shaftesbury and I were of opinion to order the war so that the French were to deliver towns into our hands." There is no doubt that Worne and Goree were added to the places to be given to England in the second negotiation to which Buckingham, Ashley and Lauderdale were parties. The Duke of Buckingham further stated most positively that he and Ashley had urged in the Cabinet the duty of consulting Parliament before beginning the war. "I and Lord Shaftesbury," he said, "were of opinion not to begin a war without advice of the Parliament and the affections of the people, that the Parliament might join in it." Afterwards among a series of questions put to him by order of the House by the Speaker, Buckingham was asked "by whose counsels the war was made without advice of Parliament and the Parliament thereupon prorogued," and he answered, "Lord Shaftesbury and I were for the advice of Parliament for the war; I can say nothing to the prorogation."

The Duke of Buckingham had sought advantage for himself in negotiating with France, and he had been gratified by a pension given by Louis to his mistress, the Countess of Shrewsbury. Buckingham had in-

1 Own Time, i. 527.

tended and expected to be made, through the request of Louis, commander of the auxiliary force of six thousand men promised in the treaty of December 1670. In the interval between that treaty and the remodelled one of February 1672, it was agreed between Charles and Louis that the command of any auxiliary force sent should be given to the Duke of Monmouth. When Buckingham discovered this, he was furious in disappointment. Arlington's wife received after the conclusion of the treaty of 1672, a French necklace of the value of sixty thousand francs, and Arlington warmly thanked Colbert.[1] There is no mention in Colbert's despatches of any present actually given to Ashley. He mentions in a despatch of April 2, 1671, that he had given a present to Lauderdale, and was to give similar presents to Buckingham and Ashley.[2] These would be ordinary presents after the treaty of December 31, 1670. It was an old international custom, by which British diplomatists have been allowed until very lately to benefit, for sovereigns on exchanging ratifications of treaties to send mutual presents of baubles or snuff-boxes to the plenipotentiaries who signed. There is no reason why Lord Ashley should not have received such a present. It is very certain that he received no other. Bishop Burnet, writing from vague and exaggerated rumour, says that the five who signed the treaties "had all of them great presents from France besides what was openly given them, for the French Ambassador gave them all a picture of the King of France set in diamonds, to the value of three

[1] Mignet, iii. 702; Dalrymple, ii. 82. [2] Dalrymple, ii. 82.

thousand pounds."[1] Such pictures could not have been hidden from universal sight, and Mr. Wyche says, that he who lived long in Shaftesbury's house had never seen such a picture, and knew of none of his family or intimates who had seen or heard of it.[2] The present Lord Shaftesbury has told me that no such jewelled portrait has descended to him. It may be assumed that there is no truth, as regards Ashley, in Burnet's unsupported statement of "great presents."

I turn from public affairs to some incidents of Lord Ashley's private life and some private correspondence coming within the time embraced by this chapter.

Lord Ashley's son, Anthony, had left Oxford, had married a wife, and was now father of a son, who became in time distinguished as a man of letters and a metaphysician and author of the "Characteristics;" and he was yet only nineteen years of age when this son was born, on February 26, 1671. He had left Oxford in the beginning of 1667, having then acquired by the privilege of a nobleman's son the degree of M.A. after a two years' residence.[3] Shaftesbury, very uneasy about his own health in consequence of the abscess which ever troubled him, was anxious for the early marriage of this his only son. There was a project of marriage for him in the autumn of 1668, when the young man was but in his seventeenth year, with a niece of the Earl of Warwick.

[1] Own Time, i. 535.

[2] MS. Vindication of Shaftesbury from Bishop Burnet's History, by Philoecus.

[3] He took the degree of M.A. Feb. 27, 1667. (Wood's Ath. Ox. iii. 293, Bliss's edition.)

The following is an interesting letter from Shaftesbury to Lord Warwick on the subject, written on September 4, 1668; and this letter probably terminated the negotiation.[1]

"My Lord,—Since your Lordship resolved to give but five thousand pound, I did not expect that delay and difficult and high terms should accompany it. The uncertainty of my condition of health, which may admit of a fatal and insensible relapse, makes me very desirous to see my son settled, and if your Lordship meant yesterday the marriage should stay until an Act of Parliament, I can by no means agree to that nor to any other step, but the drawing the writings which cannot be long about. I must therefore humbly beg your Lordship to appoint me to attend you Wednesday or Thursday next, when I may receive your final answer, and, that you may have all before you, let me herein acquaint your Lordship with some particulars I shall then insist on. First, I shall settle no separate maintenance for the lady apart from her husband. Your Lordship gave me back my paper and did not accept of my offer, and on second thoughts I would not on any terms you had; I should never have had satisfaction in that match where it had been. Secondly, as to daughters' portions, I have myself married three wives out of the peerage and never heard of it. My Lord Keeper Coventry asked it with none of his daughters. My Lord Exeter's sister brought me six thousand pound, this lady four. Thirdly, the article for your Lordship to clear your niece's and I my son's debts, the lady to have one hundred pound in her

[1] From the draft among Lord Shaftesbury's papers at St. Giles's. Charles Rich, fourth Earl of Warwick, son of the Lord High Admiral for the Parliament at the beginning of the Civil War, succeeded to the title in 1659, and died in 1673 without surviving male issue; and the title then went to his cousin, the second Earl of Holland.

pocket besides her portion and my son two hundred from me besides his settlement, I cannot part with. Lastly I must beg your Lordship will not take it ill that I insist upon having the portion deposited in hands to my liking, lest, if your Lordship's occasions should not have the money at the time, I be put in this dilemma, either to take security for the money, which I shall never do, or to break off their match at the instant of their wedding; this I resolve not to run the hazard of. My Lord, you have what occurs to me in this affair and what I shall not in the least recede from. What you will determine upon it I must in all humility submit to your Lordship in your own concerns, and shall receive it as becomes, my Lord, &c., &c.,

"ASHLEY."

Shaftesbury expresses in this letter serious uneasiness about his health, and a casual mention of him by Pepys shows that his life was in this year rumoured to be in danger. On June 19, 1668, Pepys entered in his Diary that he had heard "how my Lord Ashley is like to die, having some imposthume in his breast, that he hath been fain to be cut into his body." Such an operation was performed in this year, after a consultation of medical men, and chiefly by Locke's advice; and the wound was afterwards always kept open, a silver pipe being inserted. This saved Lord Ashley's life and gave him health.[1]

The project of marriage with Lord Warwick's niece not being realized, there was a few months later another project of marriage for the young man with a niece

[1] See a reference to Locke's great service in this matter in Lord Ashley's letter to Dr. Fell, p. 48

of John Evelyn. There is an entry in Evelyn's Diary, November 27, 1668: "I dined at my Lord Ashley's (since Earl of Shaftesbury), when the match of my niece was proposed for his only son, in which my assistance was desired by my Lord."

The young man was married in September of the following year to Lady Dorothy Manners, daughter of the Earl of Rutland. Some very interesting letters written by Shaftesbury to Locke on the subject of this marriage are among the papers found at St. Giles's. Locke, now an established inmate of Lord Ashley's house, and a valued member of his family, had been actively friendly in the arrangements for this marriage. He had accompanied Mr. Ashley to stay at Belvoir, the bride's home, before the marriage.

"WIMBORNE ST. GILES, *August* 29, 1669.

"MR. LOCKE,—I hear from my Lady Rutland, that my Lord and his family resolve to be in London the beginning of next month and then finish the marriage. So that I think my son may best come away to me, and he shall from London meet his lady as they come up, so that you must settle an intelligence both for the time and stages of their journey. I have sent Maurice to you fully instructed and with another jewel; I would have my son present his lady with both together, a day or two before he goes. My best blessings to my son and respects to you. I rest,

"Your most affectionate friend,

"For his much esteemed friend, "ASHLEY.

"Mr. John Locke, at Belvoir Castle."

"*September* 16, 1669.

"SIR,—Yours of the second instant came to me by Maurice last night. I am very well pleased with either of my lady's resolutions, so the marriage be despatched either at Belvoir or London. I never thought of prescribing any place, only begged it might receive no delay, both to satisfy my son and avoid all uncertainties in an affair so agreeable to all my wishes. I have in this packet sent two letters to my Lord and my Lady Rutland to assure them I shall with my wife attend them at Belvoir the twenty-fourth of this month, and to beg their pardons that I do it not sooner, being by the assurance of their coming to London put so much back in the ordering my affairs. I have sent Maurice to London to provide wedding clothes and all other things against that time. My best blessing to my dear son. This letter must serve you both, and desire him to present my most affectionate service to my Lady Dorothy; she has highly obliged me in all her carriage in this affair, having done all with so much sweetness and prudence as gives me the assurance of the greatest happiness in both to myself and family. I hope my son has presented her with the two jewels I sent him, the diamond cross and pendants. My Lord and Lady Rutland, my Lord Ross,[1] my Lord Montague and his brother the Attorney[2] have all been most obliging in this business, so that it goes on with the most aus-

[1] The lady whom Shaftesbury's son married was daughter of John Manners, eighth Earl of Rutland, who had succeeded to the title in 1641, who married a daughter of the first Lord Montagu of Boughton, and who died September 20, 1679. Lord Ross or Roos was the Earl of Rutland's eldest son.

[2] Lord Montagu was Lady Rutland's brother. The Attorney was William Montagu, then Attorney-General, and afterwards Lord Chief Baron of the Exchequer. He lived to an advanced age, and died in 1707.

picious omens and I hope will be a great blessing to a dutiful son.

"Sir, you have in the greatest concerns of my life been so successively and prudently kind to me that it renders me eternally,

"Your affectionate and faithful friend,

"ASHLEY.

"For his very worthy friend,

"Mr. John Locke, at Belvoir."

The next letter is written after the marriage.

"LONDON, *October* 5, 1669.

"MR. LOCKE,—I shall not fail to attend your good company at Luton Wednesday night, being the 13th instant, with two coaches, and if they want a carriage for their things, I will send mine with two horses either to Boughton or Luton, as you shall direct by the next post; 'tis much better than any sumpter. I have written to my Lady Rutland that I shall not think of Salisbury House at that rate, and besides since my coming to town I am hot on a design of building, and hope that will gratify my Lady Dorothy to endure worse lodgings for a while. I am glad to hear they follow my business so hard; I hope to hear of what follows shortly. Pray tell my son, if Mr. Heymore[1] with his broken head should but lie abed half as long with Mrs. Sarah, his family would increase, and I hope as well of the master. My best blessing to them both. I rest,

"Your most affectionate friend,

"ASHLEY.

"For his much esteemed friend,

"Mr. John Locke, at Belvoir Castle, near Grantham."

[1] Mr. Heymore or Highmore was Shaftesbury's chaplain.

A bill was passed during the parliamentary session of 1669–70, to enable Mr. Ashley to acknowledge fines and suffer recoveries of certain lands, whilst under the age of twenty-one years.

Lady Dorothy Ashley presented her husband with a son and heir, February 26, 1671. In July there are two letters from the young mother to Locke, written to him as the family friend and doctor, and announcing that she was a second time pregnant. The young parents were probably visiting at Belvoir, having left their child at St. Giles's, where Locke was. The second letter shows great affection and reverence for the young lady's father-in-law.

"*July* 1, 1671.

"GOOD SIR,—I am so much obliged to you for your letter and kind account and care of my dear one, that I am forced to give you trouble by this letter, and must tell you I do find so much alteration in my health and strength that I do most heartily wish you here every day, for I am sure this place would at this time do you all the good in the world; for, though I be breeding, I have no manner of cough or heaviness at heart as I had of dear one, but grow both fat and big, though I eat little meat, but butter and sallets and porridge, when I can get them, so that I believe, being in the sweet air, I shall have two boys. I wish I was at St. Giles's with my Lord and Lady, and when I should see you there with them, for to be with them is much desired by,

"Good Sir,

"Your most obliged friend to serve you,

"DOROTHY ASHLEY."

"*July* 15, 1671.

"GOOD SIR,—I return you ten thousand thanks for your letter this day, for writing last week to my Lord and not having any word of him, if I had not heard from you I must have been in great concern with fear he had been ill, but now 'tis nothing but business I will be content till I see or hear from him, for longer than this day sennight I cannot stay here, unless I am commanded by his Lordship; for these two or three days I do find my condition makes me most unfitting for to be here, where I find every day so many wonderful disturbances that I must be at rest somewhere; for I find need to be at ease, for I am now sick every day, and cannot endure to wait word of my Lord as I have done till now, so I intend, God blessing me, to set out hence next week. Pray with my humble duty to my Lord, let him know what I write: for without his commands, now I have satisfied my brother by writing as I did last week to his Lordship, I have nothing to do but come as he gave me leave to his sweet St. Giles, for nothing is more pleasant than the thoughts to see his Lordship and my Lady, and yourself too.

"Good Sir,

"Your most obliged friend and servant,

"DOR. ASHLEY."[1]

It appears by the following from Lady Ashley to Locke that she was at Petworth, when Lady Dorothy's last was written, and Locke had given her news of her

[1] There are also among the papers at St. Giles's four letters from the Countess of Rutland to Locke, thanking him for care of her daughter after her confinement in February 1671. In one of them, March 7, she writes: "I am sorry his Lordship (Lord Ashley) is indisposed; hope this cordial will contribute to restore him. I beseech you present my service to him, and all true thanks to my honoured lady for her charitable ministrations to my good child."

husband at St. Giles's, as he was informing Lady Dorothy at Belvoir about her baby.

"PETWORTH, 14*th July*, 1671.

"GOOD SIR,—Though I am very ill at this exercise in all kinds, yet my earnest inclination to express my gratitude upon every occasion will not suffer me to omit this return of my thanks to you for the best of news you sent me of my dear Lord's welfare and of the gallant actions of our Island adventurers,[1] and also of the old dotage and young folly of the senseless English and Irish contrivance, overthrown by the French experience in gallantry, all which in several ways is very entertaining to

"Your faithful friend to serve you,

"M. ASHLEY.

"For Mister Locke."

At the end of August Locke appears to be in London with Lady Ashley and Lady Dorothy Ashley and the child, and himself thinking of marriage; and Lord Ashley writes to him, probably from St. Giles's:—

"*August* 29, 1671.

"MR. LOCKE,—I have received yours of the 27th instant with the most welcome news both to me and my son, of my wife's, my Lady Dorothy's, and the little boy's health; we pray heartily for the continuement of it unto them all three, but that you may not think us of John Dee's humour we wish well to you and Mrs. Bedloe, and are content you should be blest and multiply too if you please, for I am sure that would be no prodigy, but

[1] This may refer to the buccanier Morgan's raid on Panama across the Central American Isthmus, of which news had arrived from Jamaica in the previous month, and which caused much excitement. (Evelyn's Diary, June 29, 1671, and October 20, 1674; Arlington's Letters, ii. 327.) I am unable to explain the allusion to the "English and Irish contrivance," defeated by "French gallantry."

a good omen, especially to ——,[1] that may well hope dry ground might increase as well as dry bones. I hope my wife hath received two letters lately from me, so that this to you shall excuse me until next post. I must desire your trouble to dispose of these several letters according unto their direction; that for the Duke of Buckingham must be left at one of the secretaries;[2] the letter to my Lord Mountague I have left open, that when my Lady Dorothy hath perused that and the letters within it, she may seal it up and send it away.

"I rest, Sir,

"Your very affectionate friend to serve you,

"ASHLEY."

It may be here mentioned that a domestic trouble of Lord Roos, Lady Dorothy Ashley's brother, had raised in 1670 a public question very important in its bearings, and Lord Ashley had zealously taken part in the House of Lords for his brother-in-law.

Lord Roos had obtained a sentence of divorce in the Ecclesiastical Court against his wife, daughter of the Marquis of Dorchester, for adultery, and had with some difficulty obtained an Act in the session of 1666–7 to bastardize a male child born of his wife.[2] A bill was introduced in 1670 to enable Lord Roos to marry again, and this bill gave rise to vehement debates, and became a great political question. There were then no precedents for an Act to enable remarriage after divorce; and it was believed with reason that the King, who had thought of divorcing his Queen, built hopes on the success of Lord

[1] The MS. is here illegible.

[2] See the account of the debates in the House of Lords on that Act in Clarendon's Continuation of Life, 999—1008.

Roos's bill. The King and the King's friends eagerly supported the bill; the Duke of York, the heir presumptive, as eagerly opposed it. The King astonished the House of Lords and the public by going to the House and sitting on the throne during the debates on the bill. His first appearance there was on March 21, 1670; Lord Roos's bill had been read a second time on the eighteenth, being carried by a small majority. On the King's first appearance in the House, he made a speech which is entered in the Journals. "Then His Majesty said to the Lords that he is come to renew a custom of his predecessors, long discontinued, to be present at debates, but not to interrupt the freedom thereof, and therefore desired the Lords to sit down and put on their hats and proceed in their business."[1] Evelyn, who went to the House of Lords on March 22 to look on, says, "I saw His Majesty sit on the throne, but without his robes, all the peers sitting with their hats on; the business of the day being the divorce of my Lord Ross. Such an occasion and sight had not been seen in England since the time of Henry VIII."[2] The bill passed. Lord Ashley supported Lord Roos's bill, and this is ascribed by Andrew Marvel to a desire to please the Court. "The great bill begun in the Lords, and which makes more ado than ever any Act in this Parliament did, is for enabling Lord Ros, long since divorced in the spiritual court, and his children declared illegitimate by Act of Parliament, to marry again. Anglesey and Ashley, who study and know their interests

[1] Lords' Journals, March 21, 1670.
[2] Diary, ii. 49.

as well as any gentlemen at Court, and whose sons have married the sisters of Ros, inheretrixes if he has no issue, yet drive on the bill with the greatest vigour."[1] But surely Lords Anglesea and Ashley were acting according to the wishes of Lord Rutland, and like good relatives; and Lord Ashley, who had a clear and vigorous mind for these subjects, may have been convinced that it was right to permit marriage after divorce. Marvel further states, that after the affair of Lord Roos's Act the influence with the King of Ashley and others who had supported it was increased. "The governing cabal," he writes, April 14, 1670, "since Ross's business, are Buckingham, Lauderdale, Ashley, Orrery, and Trevor. Not but the other cabal, too, have seemingly sometimes their turn."[2] The other "cabal" is Arlington's and his following. It was a few months after this, in June, that Ashley and Lauderdale were called in to aid with Buckingham in the dark for a French alliance.

Lord Roos was afterwards twice married. He succeeded his father as Earl of Rutland in 1679. He was created Duke of Rutland by Queen Anne in 1703. His

[1] Marvel to Ramsden, March 21, 1670. (Works, i. 411.)

[2] Marvel's Works, i. 419. Lord Conway writes to Sir George Rawdon, March 15, 1670, that "now Lord Kingston, the Duke of Buckingham, Lord Lauderdale, Lord Ashley, Lord Berkeley, Secretary Trevor, Lord Orrery, and Sir Thomas Osborne, are as one man, and are nothing but by common consent." Lord Conway states in the same letter that Lauderdale had quitted Arlington and Ormond, and made a close friendship with Buckingham, Ashley and Orrery exerting themselves to unite Lauderdale and Buckingham. "Much ceremony," Lord Conway proceeds, "there was in this solemnity, which I omit; but at last the King was the instrument of this reconciliation, and was brought to make it his own concern." Lord Conway refers to Lord Roos's bill then proceeding. "The King," he says, "is for it to the height, the Duke as warm against it; you may easily guess why." (Rawdon Papers, p. 240.)

eldest son married in 1693 a daughter of the martyr William Lord and heroine Rachel Lady Russell.

The papers at St. Giles's contain a few letters which passed, in 1669 and 1670, between Lord Ashley and Sir William Morrice, who had ceased to be Secretary of State in September 1668. These letters show a very cordial friendship between Ashley and Morrice, who was Monk's most confidential coadjutor when he struck in to effect the Restoration. Morrice also had the friendship of Clarendon, who speaks of him with much kindness.[1] Morrice had shown himself a friend to Clarendon in adversity, and to this he had probably owed his removal from the Secretaryship of State. The following letter refers to the rivalries and differences between Buckingham and Arlington at the time of the commencement of the complicated secret negotiations with France; and Ashley shows his own inclination to Buckingham in the playful allusion to the probable success of the Master of the Horse.

"*October* 30, 1669.

"MY MOST WORTHY FRIEND;—I have this summer had so many and so great diversions both of public and private affairs, that I have not been master of my own thoughts, and have writ but once to you, and that I find never came to your hands, which gives me the greatest trouble, since I have no friend I more truly esteem, or to whom I have more obligations, and whose kindness I more desire to preserve. My son is married to my great content, a virtuous, discreet, well-humoured lady, great and necessary additions to her birth and fortune. I am sorry for

[1] Continuation of Life, 432.

my own sake not to enjoy you here this session, but you are in a better place. The Lapland Knots are untied, and we are in horrid storms. Those that hunted together now hunt one another, and at horse play the Master of the Horse must have the better. The division about Skinner's business of the two Houses is by the state chemists like to be improved into a new Parliament. No man of our age has seen a time of more expectation, which is the next step to confusion. I shall for my private only say that I am unalterably to yourself and all yours,

"Sir,

"Your most affectionate faithful servant,

"ASHLEY."

Parliament had met on October 19, 1669, and was suddenly prorogued on December 11 on account of the hot dispute between the two Houses on Skinner's business. It has been already stated that when Parliament reassembled in February 1670, the quarrel was arranged by an expedient which Lord Ashley is said to have suggested.[1]

The following is from Sir William Morrice to Lord Ashley, full of friendship and respect.[2]

[1] See p. 19.

[2] Burnet says of Morrice that "he was very learned, but full of pedantry and affectation;" and that Monk on one occasion said to the King, that "he did not know what was necessary for a good Secretary of State in which he was defective, for he could speak French and write shorthand." (Own Time, i. 99.) But he knew more than this, for he was a good Latin and Greek scholar; Clarendon says this of him. Evelyn speaks of his learning and his good library, and also mentions a wrestling match before the King in St. James's Park between the western and northern men for 1000*l.*, when Morrice acted as one of the judges. (Diary, i. 399; ii. 23, 25.) His quaint pedantry is proved by his letters and by several reports of his speeches in the

"*June* 21, 1670.

"MY LORD,—I should take less complacency in life, did I not hope to live in your memory, for as, when men cease to be, they commence into a nobler life, if they live in history (as a fly involved in amber acquires a braver being than life could afford him), so to live in the remembrance of great and virtuous persons, while we are absent from them, is an honour that more endears life. You must then excuse me if out of that ambition I have of that dignity to be preserved in your remembrance, I do sometimes remind you of an old servant of yours, who, though antiquated and weak in powers to serve you, yet has still as strong affections to do it as ever; and as when devotions and offerings were to be paid at the Temple (as of old among the Jews and yet among the Mahomedans) those who could not go thither were obliged in their oraisons to look towards them, so my grateful respects and honourable reflections shall be ever towards you. And when I am incapacitated to do you more service, I will make oblation of my votes for the increase of your years and honours, and that, before you need it for old age, you may have a staff to support you and the nation, in the joy whereof none can take a greater share than,

"My Lord,

"Your most affectionate humble servant,

"W. MORRICE."

Diary of the Cromwell Parliaments. (Burton's Diary, iii. 558; iv. 59, 98, 189, 289, 355.) The Diarist says on one occasion, "His was a finely timed speech, with rhetoric and story adorned, but I could not well hear him. If he spoke but for candles, the poet must come in." His speeches are full of religious allusions and phraseology. He was the author of a work entitled "The Common Right to the Lord's Supper Asserted." See a letter of his on theology in the Fairfax Correspondence, iv. 139.

Lord Ashley very cordially replied to his old friend's compliments. The next letter is written after the treaty of Dover, which was a secret to Ashley, and soon after the first disingenuous overtures made to him by the framers of that treaty for co-operation with Buckingham in negotiations for a close alliance with France. The "travellers to Montpelier" is a reference to the exiled Clarendon.

"*July* 5, 1670.

"MY WORTHIEST FRIEND,—I have received yours of the twenty-first of June, and rejoice to hear my best friend is well, and that I live in his memory and kindness. I shall never forget the obligations I have received from you, which are more than I owe to any other subject. Since I knew you we have had a constant and uninterrupted friendship, I daresay not in thought, which is a miracle in the place we lived. You are the only happy man that have got off the stage with the love and esteem of all. We are in the storm, and in dispute what shall be our event, whether Knights of the Garter or travellers to Montpelier, but in all estates I must ever be,

"Sir,

"Your most affectionate humble servant,

"ASHLEY."

The following letter to Dr. Fell, Dean of Christ Church, Oxford, complaining of unwillingness to grant a former request for a Doctor's degree for Locke, and recommending him for preferment,[1] shows friendly relations of Ashley with Ormond, and with Dolben, the Dean of Westminster and Bishop of Rochester, afterwards Archbishop of York. Dr. Fell is the Dean of Christ

[1] Reprinted from Locke's Works, vol. x. p. 321.

Church who deprived Locke of his Studentship in 1684, in servile obedience to a royal mandate.[1] This letter is very interesting as showing that Shaftesbury professed to owe his life to Locke's medical advice.

"*December* 8, 1670.

"SIR,—You are well acquainted with the kindness I have great reason to have to Mr. Locke, on whose behalf I had prevailed with the Duke of Ormond[2] for his assistance towards the attaining his doctor's degree at the reception of the Prince of Orange,[3] and I am apt to think the instance of your Chancellor, and the relation he has to me, would not have been denied by the University. But Mr. Locke, understanding the Provost of Eton declared himself and you dissatisfied with it, has importuned me to give him leave to decline it, which, upon conference with my worthy friend the Bishop of Rochester, I have done, and returned his Grace's letter, though my Lord Bishop of Rochester can tell you I could not but complain to him that your Chapter had not been so kind to me in Mr. Locke's affairs as I thought I might justly expect, considering him a member of their house, having done both my life and family that service I own from him, and I being of that quality I am under his Majesty, under which title only I pretend

[1] Lord King has published some of Fell's friendly letters to Locke, and justly censured the Dean's treacherous conduct, which has also more lately been branded by Lord Macaulay. (Hist. of England, i. 545.)

[2] The Duke of Ormond had been elected Chancellor of the University of Oxford in August 1669, after Clarendon's banishment, when Clarendon resigned the office, and Sheldon, Archbishop of Canterbury, having been elected to succeed him, declined the honour and recommended Ormond. (Carte's Life, ii. 381.)

[3] The Prince of Orange had been over to England in the winter of 1669–70, to see his uncle, Charles II. The Prince was then nineteen years of age, and Charles had let him discover by his conversation that he was a Roman Catholic. (Burnet's Own Time, i. 474.)

to any favour from them. All that I request now of you and them is that, since he will not allow me to do him this kindness, you will give me leave to bespeak your favour for the next faculty place, and that a more powerful hand may not take it from him. I rely very much on my Lord Bishop of Rochester's mediation and your own kindness to me that may induce you to believe that an obligation will not be absolutely cast away on,

"Sir,

"Your affectionate friend and servant,

"ASHLEY."

The family papers furnish a letter of another sort, written by Lord Ashley to his bailiff, in 1671, giving minute instructions for planting.[1]

"*January* 29, 1671.

"HUGHES,—I am promised by a gentleman of Gloucester, who is a very eminent planter there, to send me an hundred trees of seven several sorts of the best cider apples, besides some wilding crabs, which he finds to be the best stocks to graft upon and give the fruit the best relish; the names of the cider apples are the Redstreake, the Black Apple, the Streake Must, the Sour Pippin, the Bramsbury Crab, the Foxwhelp, the Grouting. They shall be all bound up in bundles apart and writ upon, and therefore pray mark where you set them, that you may be able to distinguish each sort from one another. I would have you take up the pear stocks that are engrafted at Rumpford and set them in their rooms, or you may take up all the golden remmets, for they are

[1] Locke's "Observations on the Growth and Culture of Vines and Olives, the Production of Silk, and Preservation of Fruits," printed in vol. x. of his Works, were written at Shaftesbury's request, and inscribed to him. Among the papers at St. Giles's is a list by Shaftesbury of varieties of fruit-trees, pears, apples, plums, &c.

good for nothing. If you can possibly, you must with all speed send me up to London some of the grafts of the pear ——.[1] If you have none of the best sort, you must needs get them elsewhere for me, because they are for my Lord of Essex. When the messenger brings these cider apple trees, you must pay him for his journey. I would have the wildings planted in some by corner where they may bear and not be grafted, because I would have more of the kind. I would have you take up the trees in Rumpford Orchard and dig the ground ready against they come.

"This gentleman, being one of the greatest planters of England for timber trees, declares by experience of himself and his father that the best planting is with nuts, acorns, seeds, and footsets, and not with young trees removed; and in that manner of planting, where the ground is dry, he never plants on little hills, banks, or ridges, but sows and sets them on the plain ground, having first made it with several ploughings or diggings very light and fine, which should be begun about September, that the frost might season the earth against the spring when you plant. When this is done, the roopworm is certainly killed, and will not annoy the seeds or plants. He useth constantly, in setting of chesnuts, acorns, and seeds, to steep them twenty-four hours in milk, which gives them a great advantage; he sets his seeds and plants five foot one from another, and sets the two first years among them beans, which not only pays his charge, but, as he affirms, extremely cherisheth the plants. He waters his plantations the two first years only. Mr. Bennet hath promised that you two shall go over to him to see his plantations, for he hath the most and the best that is to be seen any-

[1] Name illegible.

where, and in barren grounds. The gentleman's name is Mr. Smith, and he lives at North Nibley, near Berkeley Castle. He plants an abundance of the best sort of filberts amongst his plantations of timber. I would have you do the same amongst mine. He assures me that, if I plant siccamores near my gardens, they will spoil all my fruits with the flies they breed.[1] Therefore, pray pluck up all the siccamores that are in the dry meadow behind my kitchen garden, and in the room of every one of them plant a chesnut, a walnut, or a honeybroke oak. You have of the chesnuts and honeybroke oaks in the nursery, which you may transplant, but you must not plant the oak and walnuts next one another.

"I had forgot Mr. Smith's other reason for preferring the wilding stock before the crab, which is that many sorts of apple trees grow too big for the crab stock. He pretends a great curiosity in preserving the choicest wall fruit, which are apt to blow too early, from the frost, which is by tying the body of the tree very hard with some girt web that may not gall or hurt it for removing it higher or taking it off as you would have the sap come up.

"ASHLEY."

The above letter is extremely interesting, as showing the eagerness with which Shaftesbury applied his mind to any subject that he took up, and the very practical

[1] "The sycamore, or wild fig-tree, falsely so called, is our *Acer majus*, or broad-leaved *mas*, one of the maples, and is much more in reputation for the shade than it deserves; for the honey-dew leaves, which fall early, like those of the ash, turn to mucilage, producing noxious insects, and putrefy with the first moisture of the season, so as they contaminate and mar our walks; and are therefore, by my consent, to be banished from all curious gardens and avenues." (Evelyn's Sylva, 2 vols. 4to. 1812, vol. i. p. 200.)

character of his intellect. Two papers, which will be printed later, show him as knowing in horses as this one in planting. The variety of Shaftesbury's talents and the versatility of his mind are very remarkable. One of the subtlest of reasoners, extensively learned, and a moving orator in debate, he charmed in domestic life and private society with the wit and liveliness of his conversation; he controlled with minute care the management of his extensive affairs, and he could instruct his groom and his gardener in their respective callings.[1]

[1] Among the papers at St. Giles's are a list in Shaftesbury's own handwriting of the Psalms with notes for daily use and for special services, and a series of observations made by him on the weather, under the heads barometer, hygrometer, wind, and weather.

CHAPTER XII.

1672.

The so-called Cabal Ministry—Meaning of Cabal—Want of union between the five Ministers called Cabal Ministry—The Stop of the Exchequer—Bankers suspend payments—Clifford the adviser and author of the Stop—Lord Ashley opposed it—Ashley's protest against the Stop—His letter to Locke, November 23, 1674, declaring that he opposed it—Corroborative evidence of Sir W. Temple and Evelyn—Duke of Ormond's alleged statement to same effect—Anecdote of the King's rebuke to Lord Chancellor Finch when he accused Shaftesbury—Counter-statements of North and Burnet and in the Life of Duke of York—Lord Campbell and Lord Macaulay in error—Declaration of Indulgence—Approved by Lord Ashley—Dispensing power in ecclesiasticals an ancient royal prerogative lately exercised—Ashley's reasons for supporting Declaration of Indulgence—The Dutch war—Attack on Dutch fleet before declaration of war—Made Earl of Shaftesbury and Baron Cooper of Pawlett—Progress of the war—Mission of Buckingham, Arlington, and Halifax to the French King—Treaty of Heeswick of July 6—Knowledge of the King's being a Roman Catholic—Shaftesbury refuses offer of Lord Treasurership—Made President of Council for Trade and Plantations—Made Lord Chancellor—Letter to Sir William Morrice—Reply to Earl of Essex's congratulation—His wardrobe in July 1672—Miscellaneous notices of Shaftesbury from Restoration to Chancellorship.

THE five Ministers of the King whose names were appended to the Treaty of alliance with France for war against Holland, which was ultimately published—Clifford, Arlington, Buckingham, Ashley, and Lauderdale—have come down to posterity with the nickname of the Cabal Ministry, from the accident that the initials of their names make the word *Cabal*. This word *cabal* had not at that time the unfavourable

meaning which now always attaches to it. It was used to designate any political combination, and it is so used in a passage quoted in the last Chapter from a letter of Andrew Marvel, in which he speaks of Buckingham's "cabal" and of Arlington's rival "cabal" in the same ministry.[1] It was indeed in use as a name for the small Committee of the Privy Council, otherwise called the Committee for Foreign Affairs, which had the chief management of the course of government, and here it had much the meaning of the word *cabinet* now in vogue.[2] The many unhappy memories of the Dutch war of 1672 have led it to be thought that a name given in playfulness was originally intended as a reproach, and the disagreeable meaning which the word *cabal* has subsequently acquired has doubtless in turn aggravated the bad repute of all the five Ministers who signed the treaty of French alliance. So much, however, was the name an accident and a witticism, that those five Ministers never alone constituted the Committee of Foreign Affairs. Bridgman, the Lord Keeper, was always a member of this Committee; so was the other Secretary of State, Sir John Trevor, who had replaced Morrice in September 1668; and so was the Duke of York, the Lord High Admiral.

[1] See p. 43.

[2] The word "Cabal" in this sense occurs frequently in Pepys's Diary, as on March 28, 1667, "Walked to my Lord Treasurer's, where the King, Duke of York, and the Cabal and much company withal. Anon came out from the Cabal my Lord Hollis and Mr. H. Coventry, who, it is conceived, have received their instructions from the King this day." Hollis and Coventry were then proceeding as plenipotentiaries to Breda for the conference for peace. See also "Cabal" used by Pepys in the same sense, Oct. 14, 1665; Dec. 21, 30, and 31, 1667; Feb. 8, March 21, and April 4, 1669.

Generally, neither before nor after the beginning of the war, was there that close union and entire confidence between these five leading Ministers of the King which the word *cabal* suggests, and which has been generally believed. It has been seen in the history of the long negotiations before the war, given in the previous Chapter, that Buckingham, Ashley, and Lauderdale were ignorant of the secret treaty of June 1670, of the King's engagement to establish the Roman Catholic religion in England, of money promised and actually supplied to him by Louis in consideration of that engagement, and of the obligation of the French king to aid him with troops, if necessary, for keeping down rebellion in England. After the conclusion of the secret treaty of June 1670, artifices of all sorts were employed to keep these engagements from the knowledge of Ashley, Buckingham, and Lauderdale, while their co-operation was obtained for a French alliance against Holland. Lord Ashley then, a member of the so-called Cabal, is altogether innocent of that great and grave portion of Charles's scheme, promoted by two other members of the same so-called Cabal, Clifford and Arlington, for re-establishing Popery in England with the aid of French money and French troops.

It has been also seen in the previous Chapter that as regards our alliance with France for war against Holland, in which Ashley had co-operated, there had been some divergent and some even contradictory action among the members of the so-called Cabal. In the last session of Parliament, which ended in April 1671, Buckingham, Ashley, and Lauderdale had sup-

ported a proceeding with respect to a bill of supply, which had led to the loss of expected considerable pecuniary aid for the intended war, and had baulked and angered Charles and Arlington and Clifford. Buckingham and Ashley had also urged in Council that Parliament, which had not sat since April 1671, should again be called for advice, and for further supplies before the war was begun; but they were overruled, and war was declared in March 1672, and Parliament, which stood prorogued to April 16, was further prorogued till the end of October.

The want of money led Charles, shortly before the beginning of the war, to an arbitrary, unjust, and unwise proceeding, familiarly known by the name of the Stop of the Exchequer, which is one of the unhappy associations in the general mind with the Cabal Ministry, the blame of which has been often visited upon Shaftesbury, but which, as can be proved by very abundant evidence, Shaftesbury condemned and opposed.

An order was issued on January 2, 1672, just two months before the war began, prohibiting all payments out of the Exchequer on all warrants, orders, or securities whatsoever, for a period of twelve months. It had become, since the Restoration, the regular practice of the Government to obtain advances of money from the goldsmiths or bankers, whose security was the King's assignment of moneys coming into the Exchequer under acts of supply. The bankers had at first, when Clarendon introduced this plan, asked eight per cent. from the Government, and paid five per cent. to their clients;

but the rate of interest charged to the Government had since been raised to ten, and latterly to twelve per cent., the rate paid by the bankers to their clients remaining at five per cent. When the order for the stop was issued, the Government owed the bankers one million three hundred thousand pounds. This measure was a national act of bankruptcy, and caused great alarm and distress. The bankers immediately stopped payments, and merchants, whose funds were deposited with the bankers, protested their bills. Colbert, who approved of the measure in the interest of the war, reports the great opposition which it excited, and mentions that thirty thousand pounds' worth of bills had been sent back into Italy protested.[1] Four days after the issuing of the order, on January 6, an explanatory declaration was published, promising the bankers six per cent. interest from the day of the stop on the capital and interest then due, and stating that the suspension of payments should not last beyond a twelvemonth. On the following day the King sent for the bankers and the Treasury, pacified them to some extent, and persuaded them to resume their payments to merchants of sums deposited with them, not at interest but on call. "He required of them," says Arlington, in a letter written to the Earl of Sunderland, then Ambassador in Spain, "that without delay they should take off the stop they had made of paying the merchants their current cash, which lay deposited in their hands, not to be lent to his occasions or for interest, but for the security of keeping it; because, indeed, the

[1] January 4 and 8, 1672, in Archives of French Foreign Office.

stop of this was the occasion of the great clamour; the merchants, not daring nor being able to accept or pay any bills of exchange, drive their trade abroad, or clear their ships at the custom-house at home."[1] Arlington adds that the bankers' compliance with this desire of the King greatly appeased discontent.

The Stop of the Exchequer was a breach of faith and an injury to be justified only by extreme necessity, which here certainly did not exist. It was a rash act of wrong, proposed to the King and pressed upon him by Clifford, and strongly opposed by Lord Ashley.

Two documents are in existence which conclusively prove Lord Ashley's strong opposition to this measure. One is a remonstrance submitted by him to the King, on the eve of the adoption of the measure. The other is a letter written by him to Locke, nearly two years after, in November 1674, replying to a pamphlet in which he had been assailed as the author of the Stop of the Exchequer.

Mr. Martyn states, doubtless on the authority of Stringer, that Clifford had first proposed the measure in the course of the summer of 1671, and that the proposal had been then opposed by Lord Ashley, and in consequence of his opposition given up. Clifford renewed the proposal towards the end of the year, and then Lord Ashley laid before the King the following paper of reasons against the measure. "These reasons," Martyn says, "Mr. Stringer transcribed, and he went

[1] Arlington's Letters, vol. ii. p. 349. Colbert writes, on January 11, that the declaration of the sixth appeased all most interested. There were in all ten thousand interested.

with him [Lord Ashley] to Whitehall, where he immediately attended the King, who took Lord Ashley with the Earl of Lauderdale and Sir Thomas Clifford into his closet, where they continued about two hours. Lord Ashley on his return told Mr. Stringer that he had once more strenuously opposed that inconsiderate and oppressive scheme, but found he could do no good; however, he had left with the King his objections." Whatever may be thought of Martyn's or Stringer's statements, Lord Ashley's protest, which here follows, speaks for itself.

Reasons against stopping the due course of payment in the Exchequer.[1]

"First. It is contrary to common justice among men, and, also, to the law and several statutes of the realm.

"Secondly. It is against your Majesty's constant promises; and, especially, your declaration of the 18th of June, 1669, which says, that all funds, present and future, shall be kept sacred and inviolable.

"Thirdly. It must amaze mankind, and will ruin thousands, amongst whom are a number of poor widows and orphans.

"Fourthly. It will immediately cause the greatest damp on trade that hath been known, and so concerns your Majesty's revenue considerably; all this money in the exchequer, and a greater sum, being actually lending to your Majesty's several officers, as the treasurers of the navy and army, the chamber, cofferer, ordnance, and victuallers.

"Fifthly. This post will carry it all over Europe, to the great joy of your enemies, who know the use of

[1] This paper is printed in Martyn's Life, vol. i. p. 415.

credit; and the crown of Spain can sufficiently tell what the abuse thereof has cost, which your Majesty hath been pleased often to mention as a great mistake in that government, though they never did anything so high as this; it being only upon the farmers of the revenue.

"ASHLEY."

The following letter, written by Shaftesbury to Locke on November 23, 1674, is the second conclusive document. The whole of the letter is here printed, for its force as proof is strengthened by its informal character and by the casual manner of Shaftesbury's self-defence. Captain Halstead's affair, spoken of in the early part of the letter, had probably to do with the Carolina colony or the Bahamas, for both of which the Earl of Craven was one of the grantees with Shaftesbury; and the concluding paragraph tells us of Shaftesbury's desire to ease Locke's circumstances by giving him an annuity when his age was forty-two, at seven years' purchase. Mr. Birch's daughter was to be governess to the young grandson, nearly completing his fourth year, when the following letter was written in 1674.

"MR. LOCKE,—I write only to you, and not to Mr. Stringer, because you write me word he is ill, for which I am exceedingly sorry, and pray heartily for his recovery, as being very much concerned both in friendship and interest.

"As for Captain Halstead's affair, I have this day received the enclosed letter from him, which, when you have read, you will believe I have reason to desire to be freed from his clamour; therefore, pray speak with him again, and tell him that, Mr. Stringer being sick,

I have desired you to appear for me before the referees, and that whatever they shall award, I have given orders to pay my proportion; and that, according to his desire, I have written as effectually as I can to the other Lords, that they would do the same. Pray keep his letter, and let me have it again. I have herewith sent an answer to the Lord Craven, and the rest of the Lord's letters, which I have not sealed that you may read it: when you have read it, you may seal it yourself.

"I desire you would speak with Mr. Hawkeings about the ships at Hudson's Bay, and what hopes there is of either of them returning this year, and pray let me know what you hear of the Bahama ship.

"I desire this enclosed to Mr. Wake may be carefully and speedily delivered, and that Mr. Birch send his daughter upon any terms. I will take care we shall not differ upon anything that is reason.

"Pray let Mr. Ball, the gardener at Brandfoot, have this enclosed note, and be pleased to get some one to take care that the things be packed up and sent down for me.[1]

"Pray speak to South at the Custom House, that he would buy me one bushel of the best sort of chesnuts; it is for planting; and send them down by the carrier.

"You guess very right at the design of the pamphlet you sent me; it is certainly designed to throw dirt at me, but is, like the great promoters of it, foolish as well as false: it labours only to asperse the original author of the counsel, which it will have to be one person, and therefore seems to know, and never considers that it is impossible that any statesman should be so mad as

[1] This and the two preceding paragraphs are now printed for the first time. The rest of the letter was published by Lord King in his Life of Locke: I have completed the letter from the manuscript in Lord Lovelace's possession.

to give a counsel of that consequence to a junto[1] or number of men, or to any but the King himself; who, it is not to be imagined, will ever become a witness against any man in such a case, especially when he hath approved the counsel so far as to continue the stop ever since by a new great seal every year. Besides, I am very well armed to clear myself, for it is not impossible for me to prove what my opinion was of it, when it was first proposed to the Council. And if any man consider the circumstance of time when it was done, that it was the prologue of making the Lord Clifford Lord Treasurer, he will not suspect me of the counsel for that business, unless he thinks me at the same time out of my wits. Besides, if any of the bankers do inquire of the clerks of the Treasury with whom they are well acquainted, they will find that Sir John Duncombe and I were so little satisfied with that way of proceeding, as from the time of the stop we instantly quitted all paying and borrowing of money, and the whole transaction of that part of the affair, to the Lord Clifford, by whom from that time forward it was only managed. I shall not deny but that I knew earlier of the counsel, and foresaw what necessarily it must produce, sooner than other men, having the advantage of being more versed in the King's secret affairs; but I hope it will not be expected by any that do in the least know me, that I should have discovered the King's secret, or betrayed his business, whatever my thoughts were of it.

"This worthy scribbler, if his law be true, or his quotation to the purpose, should have taken notice of the combination of the bankers, who take the protec-

[1] *Junto*, from the Italian, a small committee or cabal; the word is now obsolete in English.

tion of the Court,[1] and do not take the remedy of the law against those upon whom they had assignments, by which they might have been enabled to pay their creditors; for it is not to be thought that the King will put a stop to their legal proceedings in a court of justice. Besides, if the writer had been really concerned for the bankers, he would have spoken a little freelier against the continuing of the stop in a time of peace, as well as against the first making of it in a time of war; for, as I remember, there were some reasons offered for the first that had their weight, namely, that the bankers were grown destructive to the nation, especially to the country gentlemen and farmers, and their interest: that under the pretence, and by the advantage of lending the King money upon very great use,[2] they got all the ready money of the kingdom into their hands, so that no gentleman, farmer, or merchant, could, without great difficulty, compass money for their occasions, unless at almost double the rate the law allowed to be taken; that as to the King's affairs, they were grown to that pass, that twelve in the hundred did not content them, but they bought up all the King's assignments at twenty or thirty per cent. profit, so that the King was at a fifth part loss in all the issue of his whole revenue. Besides, in support of the counsel, I remember it was alleged by them that favoured it without doors (for I speak only of them), that the King might, without any damage to the subject, or unreasonable oppression upon the bankers, pay them six in the hundred interest during the war, and 300,000*l.* each year of their principal, as soon as there was peace; which, why it is

[1] By "protection of the Court" is here clearly meant the protection of the King.

[2] *Use*, interest.

not now done, the learned writer, I believe, hath friends can best tell him. This I write, that you may show my friends or anybody else. The messenger staying for me, I have written it in haste, and not kept a copy; therefore, I pray, lose not the letter.

"I am sorry you are like to fare so ill in your place, but you know where your company is ever most desirable and acceptable. Pray let me see you speedily, and I shall be ready to accommodate you in your annuity at seven years' purchase, if you get not elsewhere a better bargain; for I would leave you free from care, and think of living long and at ease. This from,

"Dear Sir,

"Your truly affectionate friend and servant,

"SHAFTESBURY.

"These for his much-esteemed friend,
John Locke, Esq."

What is to be understood from this letter is, that Clifford gave the advice, not to the cabinet, or cabal, or junto, but to the King, both separately and in the Privy Council, and that Shaftesbury strenuously opposed it. When Shaftesbury says that "it is impossible that any statesman should be so mad as to give a counsel of that consequence to a junto or number of men, or to any but the King himself, who, it is not to be imagined, will ever become a witness against any man in such a case," he justly explains the relations then existing between King and individual Ministers, and what was then ministerial responsibility. A minister advised and influenced the King, and the King consulted the Privy Council. The Cabal, or Committee

for Foreign Affairs, had not the power or responsibility of the Cabinet of to-day. Each Minister was separately and directly dependent on the King, and the King protected Ministers by pardons. When Shaftesbury had unsuccessfully opposed the measure in the Privy Council, he had done his duty, and his responsibility in this matter was at an end. "I hope it will not be expected," he says to Locke, who was far too well instructed to be deceived, "by any that do in the least know me, that I should have discovered the King's secret or betrayed his business, whatever my thoughts were of it."[1]

If additional evidence is needed to clear Lord Ashley of authorship or approval of the stop of the Exchequer, it is not wanting. Sir William Temple, in a letter to his brother, Sir John, written a few months after the event, positively ascribes the measure to Clifford. "Sir Thomas Clifford," says Temple, "proposed the thing at Council, without other circumstances than saying that it was necessary the King must have money upon the war with Holland, that he knew no other way but this, and desired none would speak against it, without preferring some better and easier way. Upon this nothing more was said, and the thing passed; and being immediately public, it was too late for any man to call in his money."[2] Evelyn, the attached friend of Clifford, also ascribes it to him, and discredits a rumour that Ashley had been the author.[3] Evelyn says that Clifford had given him a hint of what was to take place a few days before

[1] Shaftesbury to Locke, Nov. 23, 1674; see p. 62.
[2] May 23, 1672; Temple's Works, ii. 184.
[3] Diary, March 12, 1672.

the suspension of payments, and speaks of Clifford as "this bold man who had been the sole adviser of the King to invade that sacred stock, though some pretend it was Lord Ashley's counsel."

It is also stated by Mr. Martyn, doubtless on Stringer's authority, that the Duke of Ormond said on one occasion that "he wondered why people accused Lord Ashley of giving that advice, for he himself was present when it was first moved by Lord Clifford, in Council, and he heard Lord Ashley passionately oppose it."[1] Lord Mohun is said to have related to Mr. Stringer, on the very day on which the incident occurred, probably in the course of the hot debates of the Lords in 1675 or 1677, that Lord Chancellor Finch having accused Shaftesbury of having advised the treaty of French alliance, the stop of the Exchequer, and the Dutch war, and Shaftesbury having contented himself in reply with appealing to the members of the Privy Council present, as to whether those things were done by his advice, Arlington thereupon asked the King, who was present, which of the two had acted more respectfully to him, for that Shaftesbury had revealed no secret, as he might have done, in defending himself, and that the King rebuked the Chancellor on the spot.[2]

Against this overpowering evidence in Shaftesbury's favour, there is little or none on the other side. Roger North, a virulent party writer much opposed to Shaftesbury, says that the stop of the Exchequer was "sup-

[1] Life, i. 422.

[2] Examen, p. 37; Martyn's Life, i. 423. Mr. Wyche, in his MS. Vindication, also mentions this story of Lord Chancellor Finch.

posed to be the invention of the Earl of Shaftesbury," and that it "was as unhappily given, as desperately taken and executed by the Lord Treasurer Clifford." But this hostile evidence is as much for as against Shaftesbury, as distinguished from Clifford. Bishop Burnet, who is much prejudiced against Shaftesbury, says that "Lord Shaftesbury was the chief man in the advice." Burnet wrote some thirty years after the event; and there are indubitable errors in his statement. The Bishop says that Shaftesbury excused the measure to him by the "usury and extortions" of the bankers, and adds that Shaftesbury "certainly knew of it beforehand and took all his own money out of the bankers' hands, and warned some of his friends to do the like."[1] It is very likely that Shaftesbury, in conversation with Burnet, as in his letter to Locke of November 1674, censured the bankers, but Burnet must have misunderstood him in thinking that he therefore justified the measure. The Bishop's statement that Shaftesbury knew of the measure beforehand is of course true; he knew of it beforehand, and opposed it in Council. That he took his money from the bankers and warned his friends is a very serious accusation, totally unsupported by evidence, and is doubtless not true. Sir William Temple, who was a loser by the event, writes to his brother: "This counsel was carried so secret that I do not hear of any man at Court that had warning enough to call in his money out of any of the bankers' hands." Ralph Montagu, who was at the time our ambassador at Paris, was detained in London by losses

[1] Own Time, i. 533.

caused by the stop,[1] and Montagu's position made it likely that he would have the earliest information. Montagu was very intimate with Shaftesbury. Even the Duke of Buckingham was a loser by the stop; he declared before the House of Commons that he lost 3,000*l.* by it.[2] Mr. Wyche, author of the manuscript Vindication, says, "I know well the banker with whom the Earl placed his money, and that he was one that never had any dealings with the Exchequer to lend money to the King, as most other bankers had done."

It is stated also in the Life of James the Second that Shaftesbury advised the stop of the Exchequer; but this is a merely incidental statement in a work of doubtful authority, in which it is always difficult to distinguish what was written by James from the compiler's statements. The evidence on the other side is so strong as to leave no doubt of the incorrectness of the statements of North, Burnet, and the compiler of the Duke of York's Life. All these three writers composed their works between thirty and forty years after this event, and they wrote from rumour.[3]

In this state of the evidence as to Lord Ashley's approval or disapproval of the stop of the Exchequer, it is not surprising to find his latest biographer, Lord Campbell, stating, although all the evidence was accessible to him, that, "although Clifford certainly was the first to propose the shutting up of the Exchequer in the

[1] Arlington's Letters, ii. 349.
[2] Parl. Hist. iv. 644.
[3] Dr. Lingard is incorrect in stating that the stop of the Exchequer is attributed to Ashley in Arlington's Letters. (Hist. of England, xii. 6, note.) Arlington in this matter would have been good authority.

Council, there is great reason to think that Shaftesbury, who had the sole management of the finances as Chancellor of the Exchequer and Lord Commissioner of the Treasury, originated the nefarious scheme, and, at all events, he supported and defended it." It is a minor point in reference to this unjust accusation that Lord Ashley had not the sole management of the finances, being only one of four Commissioners of the Treasury, of whom Clifford was another. But it is indeed surprising that Lord Macaulay has allowed himself to state that this "flagitious breach of public faith," as he rightly terms it, was proposed by Ashley and Clifford.[1]

It is negative proof of some value that Dryden, in the fierce satires which he poured out some ten years later against Shaftesbury, does not specify the indefensible stop of the Exchequer. He accuses Shaftesbury of breaking the Triple Alliance, perilling English safety, and paving the way for French mastery:

> "Resolved to ruin or to rule the state:
> To compass this the triple bond he broke,
> The pillars of the public safety shook,
> And fitted Israel for a foreign yoke."[2]

And again:—

> "Thus, framed for ill, he loosed our triple hold,
> Advice unsafe, precipitous, and bold.
> From hence those tears, that Ilium of our woe:
> Who helps a powerful friend, forearms a foe.
> What wonder if the waves prevail so far,
> When he cut down the banks that made the bar?"[3]

Clifford had been Dryden's warm friend and serviceable patron. It happens, to show the little value of

[1] Hist. of England, vol. i. p. 215.
[2] Absalom and Achitophel, published in November 1681.
[3] The Medal, published in March 1682.

Dryden's censures, that he knew Clifford to be at least as much an author of the French alliance and Dutch war as Shaftesbury, and that he at the time publicly praised Clifford's services as Minister.[1] Of Clifford's ulterior design and secret machinations for the establishment of Popery in England, Dryden was probably ignorant. But he who with factious fury denounced Shaftesbury in his later satires, as preparing England's subjugation to France by an alliance with France against Holland, had at the time rivalled, if not outstripped, Shaftesbury in eagerness for friendship with France and injury to Holland. In the Epilogue to "Amboyna" Dryden told the audience of the playhouse that the alliance of the two Kings was needful, and applied Cato's *Delenda est Carthago* to Holland, turning it into English verse.

> "Yet is their empire no true growth, but tumour,
> And only two Kings' touch can cure the humour.
> As Cato did his Afric fruits display,
> So we before your eyes their Indies lay.
> All loyal English will, like him, conclude,
> Let Cæsar live and Carthage be subdued."

It was doubtless hoped by all who supported the Stop of the Exchequer, as well as by those who reluctantly acquiesced in the King's wish and the resolution of a majority of the Council, that Parliament, when it reassembled, would provide the means of paying the bankers. This hope was disappointed when Parliament met a year later. Subsequent appeals to Parliament failed. Interest at the rate of six per cent. was paid: and in 1677 the King granted to the banker-

1 See Dryden's dedication to Lord Clifford of his play "Amboyna," produced on the stage and published in 1673.

creditors annuities out of the hereditary excise, equal to interest at six per cent. on the debts, to be redeemed on payment of the principal. For five years before the Revolution of 1688 these annuities were not paid; and the Revolution did not bring relief, till at last, in 1701, an act was passed charging the hereditary excise, in lieu of the annuities formerly granted and of all arrears of interest accumulated since 1683, with annuities equal to only three per cent. till redeemed by payment of only one-half of the principal sums. Thus this evil measure ended as it began, in injustice.[1] It is important to know that Shaftesbury had been its strenuous opponent.

Another measure of great consequence, resorted to before the beginning of the war, a Declaration of Indulgence for Dissenters from the Church, Roman Catholics as well as Protestants, had Lord Ashley's cordial approval. On the fifteenth of March there appeared a royal Declaration, in which the King said, "We think ourselves obliged to make use of that supreme power in ecclesiastical matters, which is not only inherent in us, but hath been declared and recognized to be so by several statutes and acts of Parliament," and by which he announced the suspension of "all and all manner of penal laws in matters ecclesiastical, against whatsoever sort of nonconformists or recusants." Licences were to be granted for places for worship of Protestant Dissenters, and their preachers were to be approved, while the Roman Catholics were to be allowed to worship only in private. It was a chief object of

[1] 12 and 13 Will. III. cc. 12 and 15. See Turnor's Bankers' Case and Broom's Constitutional Law, Bankers' Case, p. 228.

this Declaration, as supported by Ashley, to appease discontents and effect union of the nation on the eve of the impending war. Some of his own language was reproduced in the Declaration, when some of its objects were explained in it to be, "for inviting strangers in this conjuncture to come and live under us, and for the better encouragement of all to a cheerful following of their modes and callings, from whence we hope, by the blessing of God, to have many good and happy advantages to our government."[1] And it must be remembered that Ashley supported this Declaration as he supported the French alliance and Dutch war, in ignorance of the treaty of Dover and its secret engagements.

The royal claim to a suspending or dispensing power in matters ecclesiastical, set forth on this occasion by the King, has long since been abandoned; and it is long since the expediency of such a power could be seriously maintained. But it had been in ancient times a royal prerogative; and though now, in 1672, it was keenly and successfully resisted, it was honestly maintained by many, and countenanced by late precedents. In 1662, Clarendon had proposed to the House of Lords a clause to be inserted in the Act of Uniformity saving the King's dispensing power in ecclesiasticals. In 1663, Lord Roberts, one of the Presbyterian leaders of the Civil War, had proposed, and Lord Ashley had zealously supported, a bill declaring the same dispensing power. As late as the

[1] See Lord Ashley's Memorial in Appendix I.

session of 1670, the Lords had introduced into the Conventicle Bill sent up from the Commons a proviso regarding the King's ecclesiastical supremacy, of which Andrew Marvel says that "there was never so compendious a piece of absolute universal tyranny," and that it was thought it would give the King power "to dispense with the execution of the whole bill." The Commons, in Marvel's phrase, "retrenched" it; and it appeared in the Act as follows, leaving the extent of the supremacy undetermined: "Provided that neither this act nor anything therein contained shall extend to invalidate or avoid his Majesty's supremacy in ecclesiastical affairs, but that his Majesty and his heirs and successors may from time to time, and at all times hereafter, exercise and enjoy all powers and authority in ecclesiastical affairs, as fully and amply as himself or any of his predecessors have or might have done the same."[1] Lord Macaulay has admitted that the argument for the existence of the prerogative was plausible.[2] It is impossible to draw a distinction on principle between a power of dispensing with a penal statute in a particular case or a limited number or a class of cases or for a limited time, to all of which no objection was taken, and a general suspension of penal statutes, such as this Declaration proclaimed. Nor is it possible to distinguish on principle between a suspending power in civil and in ecclesiastical laws, in favour of the former; and the right of suspending civil

[1] 22 Car. II. c. i.; Marvel's Works, i. 146.
[2] Hist. of England, vol. i. p. 220.

laws had been on two occasions exercised by Charles the Second without clamour or cavil.[1]

Lord Ashley's reasons for supporting the Declaration of Indulgence have been fortunately given with much fulness by a writer friendly to him and deriving information from him, and yet unprejudiced, for he is opposed to the dispensing power which Ashley maintained. The interest and importance of the subject lead me to extract the whole of the passage relating to Lord Ashley's defence of this measure from the "Letter from a Person of Quality to his Friend in the Country," published in 1675, and attributed, though erroneously, to Locke. The arguments ascribed to Shaftesbury in the following passage illustrate the whole of his consistent career on ecclesiastical questions in politics.

"The Lord Shaftesbury, with whom I had more freedom [than with Lord Clifford], I with great assurance asked what he meant by the Declaration? For it seemed to me, as I then told him, that it assumed a power to repeal and suspend all our laws, to destroy the Church, to overthrow the Protestant religion, and to tolerate Popery. He replied, all angry, that he wondered at my objection, there being not one of these in the case; for the King assumed no power of repealing laws or suspending them, contrary to the will of his Parliament or people; and not to argue with me at that time the power of the King's supremacy, which was of another nature than that he had in civils, and had been exercised without exception in this case by his father, grandfather, and Queen Elizabeth, under the great seal, to foreign Pro-

[1] See Amos's English Constitution under the Reign of Charles II. 1857, p. 19.

testants become subjects of England; not to instance in civils the suspending the execution of the two Acts of Navigation and Trade, during both this and the last Dutch War, in the same words and upon the same necessity, and as yet without clamour that ever we heard: but to pass by all that, this is certain, a government could not be supposed, whether monarchical or of any other sort, without a standing, supreme executive power, fully enabled to mitigate or wholly to suspend the executing of any penal law, in the intervals of the legislative power; which, when assembled, there was no doubt, but wherever there lies a negative in passing of a law, there the address or sense known of either of them to the contrary (as for instance, of either of the two Houses of Parliament in England) ought to determine that indulgence, and restore the law to its full execution, for without this the laws were to no purpose made; if the Prince could annul them at pleasure; and so, on the other hand, without a power always in being of dispensing upon occasion, was to suppose a constitution extremely imperfect and impracticable; and to cure those with a legislative power always in being, is, when considered, no other than a perfect tyranny.

"As to the Church, he conceived the Declaration was extremely their interest; for the narrow bottom they placed themselves upon, and the measures they had proceeded by, so contrary to the properties and liberties of the nation, must needs in a short time prove fatal to them; whereas this led them into another way, to live peaceably with the dissenting and differing Protestants, both at home and abroad, and so by necessary and unavoidable consequences to become the head of them all, for that place is due to the Church of England, being in favour and of nearest approach to the most powerful

prince of that religion, and so always had it in their hands to be the intercessors and procurers of the greatest good and protection that party throughout all Christendom can receive. And thus the Archbishop of Canterbury might become, not only *alterius orbis* but *alterius regionis Papa*, and all this addition of honour and power attained without the loss or diminution of the Church; it not being intended that one living, dignity, or preferment should be given to any but those who were strictly conformable.

"As to the Protestant religion, he told me plainly it was for the preserving of that, and that only, that he heartily joined in the Declaration; for, besides that he thought it his duty to have care in his place and station of those he was convinced were the people of God, and feared Him, though of different persuasions, he also knew nothing else but liberty and indulgence, that could possibly, as our case stood, secure the Protestant religion in England; and he begged me to consider, if the Church of England should attain to a rigid, blind, and undisputed conformity, and that power of our Church should come into the hands of a popish prince, which was not a thing so impossible or remote as not to be apprehended; whether in such a case, would not all the arms, artillery, and government of the Church be turned against the present religion of it? And should not all good Protestants tremble to think what bishops such a prince was like to make, and whom those bishops would condemn for heretics, and that prince might burn? Whereas, if this, which is now but a Declaration, might ever by the expedience of it gain the advantage of becoming an established law, the true Protestant religion would still be kept up amongst the cities, towns, and trading places, and the worthiest and soberest, if not the greatest, part of the nobility, gentry, and people.

"As for the toleration of Popery, he said, it was a pleasant objection, since he could confidently say that the Papists had no advantage in the least by this Declaration, that they did not as fully enjoy, and with less noise, by the favour of all the Bishops. It was the vanity of the Lord Keeper that they were named at all, for the whole advantage was to the dissenting Protestants, which were the only men disturbed before; and yet he confessed to me that it was his opinion, and always had been, that the Papists ought to have no other pressure laid upon them, but to be made incapable of office, court, or arms, and to pay so much as might bring them at least to a balance with the Protestants for those chargeable offices they are liable unto. And he concluded with this, that he desired me seriously to weigh, whether liberty and property were likely to be maintained long in a country like ours, where trade is so absolutely necessary to the very being as well as the prosperity of it; and in this age of the world, if articles and matters of religion should become the only accessible ways to our civil rights."[1]

War was proclaimed against Holland by England and France on the seventeenth of March, 1672. The Dutch had long known the danger of this event, and had for the last eighteen months been endeavouring to propitiate singly both England and France and play one against the other, and also to secure the aid of other nations. They had made a treaty of mutual assistance with Spain, and they had engaged the Elector of Brand-

[1] This valuable tract, the 'Letter from a Person of Quality to his Friend in the Country," which arose out of Lord Danby's Test Bill of 1675, is printed in the Appendix to vol. iv. of Cobbett's Parliamentary History of England, as well as in Locke's Works, vol. x., 8vo. edition, 1812.

enburg on their side. France, on the other hand, had secured the neutrality of the Emperor, and engagements for aid from Sweden and from some of the German princes. There is no doubt that England was carried into this war in subservience to the will of France, and by the desire of Charles, stimulated by the Duke of York and Clifford and humoured by Arlington, to establish the Roman Catholic religion in England. In judging Shaftesbury individually, it must always be borne in mind that he was to the last ignorant and innocent of this ulterior design, and that he did not even originate negotiations for the French alliance, but was called in to consult with when they had in fact already made much progress. The desire to humble and paralyse a formidable rival in trade, who had inflicted many injuries on English merchants and interests in foreign parts, and would do so again, was the only plausible reason for this war: and this was Shaftesbury's reason. But so thoroughly alarmed were the Dutch, and so large at the last moment were the concessions which they were eager to make in order to avert war with England and France united, that an English administration, open to reason, and free to do right, could have obtained all proper satisfaction and security without war. But Charles was determined on war, and Arlington, who was one of the Secretaries of State, ruled the negotiations with Holland, so that war should be.

Sir William Temple, our ambassador at the Hague, a favourite with the Dutch Government, and the negotiator of the Triple Alliance, had been recalled in July 1671; and the captain of the royal yacht sent to bring home

Lady Temple and the family had received express orders to pass through a fleet of Dutch men-of-war cruising in the Channel, and fire if the Dutch ships did not lower flags to salute his vessel. The captain of the yacht executed his orders, as he returned, to the great peril of Lady Temple and her companions; the Dutch admiral forbore to return the yacht's fire, but he did not salute, and he arranged with the English captain to refer for discussion between the two Governments the question of English right to exact that in the narrow seas round England a Dutch fleet should lower the flag to one English vessel. The captain of the yacht was, on his arrival in England, sent to the Tower for having agreed to this arrangement, and not continued firing. The Dutch government's denial of the English pretension and of reparation for the refusal of the salute on this occasion entered ultimately into the reasons given in the proclamation of war. Sir George Downing, who was as displeasing to the Dutch as Temple was agreeable, was selected to succeed Temple; and the spirit in which he was sent to negotiate is explained by Colbert in a despatch of November 5, 1671, to Louis XIV. The instructions to him were to be prepared, says Colbert, by Sir John Trevor, the second Secretary of State, not in the King's secrets as Arlington was, so as "to omit none of all the reasons for complaint which the States had given the King of England since the treaty of Breda, on which Downing would be ordered only to listen to the propositions which they might choose to make to him, without himself making any overture for satisfaction, and that after he should have received his

instructions from Sir John Trevor, the King of England would tell him that he was so offended by the conduct of the Dutch towards him, that he was completely determined to treat with the King of France for declaring war at the earliest possible moment, and that therefore he sent him not to obtain satisfaction, but rather to employ all his wit and all his skill to embitter matters, so that the English might desire this war, and concur in it with good heart."[1] Downing went, and it became an object to gain a little time by spinning out negotiations. At the end of December Colbert reported that Arlington told him of new instructions to Downing, containing new demands, and carrying pretensions to such an excess, that refusal by the Dutch was irresistible."[2] A month later, the Dutch sent a special envoy to England, and agreed to concede the question of the flag, and Colbert then trembled at the prospect of an arrangement which might at the last moment prevent England from going to war; but Arlington assured Colbert that he would easily get out of the difficulty, and that he was going to prepare an answer containing demands so unreasonable that they could not be conceded, and Arlington added that the King would then tell the Dutch envoy that the offer had come too late, and that the object was to separate him from France, the Dutch hoping to be afterwards able to break with impunity promises made in extremities.[3]

Immediately before the formal proclamation of the

[1] Mignet, iii. 655.
[2] Colbert, December 26, 1672, in Archives of French Foreign Office.
[3] Colbert, Feb. 1, 1672, ibid.

war, an attempt was made, under orders, by Sir Robert Holmes to intercept in the Channel a large Dutch merchant fleet, which was on its way home from the Levant, under convoy of some Dutch men-of-war. The attempt was in the main a failure, chiefly owing to the desire of Holmes to increase his own glory and gain by not calling to his aid a squadron under Sir Edward Spragge, which was near at hand. Want of success has probably mainly contributed to a severe and perhaps exaggerated condemnation of this unhappy prelude of the war. The order given to Holmes to attack this fleet, without a previous declaration of war addressed to Holland, has been denounced as piratical and as a violation of treaty, and it is one of the counts of the heavy indictment of history against the so-called Cabal Ministry. But many of the greatest authorities on International Law have held, that a formal declaration of war to the enemy is not necessary; and there were several precedents for commencement of hostilities without previous declaration of war.[1] The alleged violation of treaty is a mistake. It had been stipulated in the Treaty of Peace of 1667 between England and Holland that, in case of war breaking out, six months should be

[1] See Wheaton's Elements of International Law, part iv. chap. 1, and Phillimore's International Law, part ix. chap. 5, where precedents are given. The doctrine that a Declaration is not necessary is strongly asserted by Bynkershoek, in his "Quæstiones Juris Publici," published in 1737, book i. chap. 2. An opinion of Sir Leoline Jenkins, addressed on May 8, 1672, to Sir Joseph Williamson, Under-Secretary of State, admits that "the Dutch, by their injuries and hostilities, may have made it lawful for us to treat them as enemies before any formal denunciation of war;" but represents such formal denunciation as necessary to secure the Government against claims of their own citizens or those of friendly nations, whose property might have been seized or destroyed under the Dutch flag. (Wynne's Life of Jenkins, vol. ii. p. 702.)

allowed before confiscation of ships, merchandise, and other goods of either party in the ports or within the jurisdiction of the other. But this clearly does not apply to ships in voyage on a maritime highway.[1]

The English declaration of war, dated March 17, 1672, recounted many grievances; the persistent refusal of the Dutch to come to terms as to trade in the East Indies, as had been promised in the treaty of Breda; new injuries to British subjects in the East Indies; evasion and violation of promises at Surinam in the West Indies; insults to the King of England and the nation, "there being scarce a town within their territories that is not filled with abusive pictures and false historical medals and pillars, some of which have been exposed to view by command of the States themselves;" the right of the English flag in English seas denied, "an ungrateful insolence," says the Declaration, "that they should contend with us about the dominion of these seas who, even in the reign of our royal father, in the years 1635, 6, and 7, thought it an obligation to be permitted to fish in them, by taking of licences and for a tribute, and who owe their being now in a condition of making this dispute to the protection of our ancestors and the valour and blood of our subjects." The Declaration proceeded, "We are compelled to take up arms in defence of the ancient prerogative of our crowns and the

[1] Burnet, who has been a chief authority for this period of English history, and who is extremely inaccurate, makes the mistake about the treaty of 1667. "By the peace of Breda," he says, "it was provided that, in order to the security of trade, no merchants' ships should be for the future fallen on till six months after declaration of war." (Own Time, i. 307.) The words of the treaty are "eæ naves, merces, et bona quævis mobilia quæ in portibus et ditione partis adversæ," &c.

glory and safety of our kingdoms; and we put our trust in God that He will give us His assistance in this our just undertaking, since we had no way left to defend our people from the artifices of that nation in peace, but by the valour of our subjects in war."

When the declaration of war came, the nation was naturally startled, and opinions divided. But war with Holland in itself was not unpopular. There was much fear of French ambition; and, later, alarm at the growth of Popery filled the public mind, and turned public feeling entirely against the French alliance and the war. But the desire to humiliate Holland was a strong national feeling, which had before plunged England into a Dutch war, and would have made this second Dutch war entirely popular, but for the fear of France and of Popery. Colbert reported on March 20, three days after the declaration of war, that in London more blame than praise it, but, he adds, that it is the Declaration of Indulgence which causes great dissatisfaction.[1] A week later, he wrote: "The proclamation of the war has been made with all ceremony in London and Westminster amid general acclamations; those who before blamed the war, thinking that England had entered into it to please France, now take a different view and praise it, giving Charles credit for having engaged France to support his interests."[2]

Shortly after the beginning of the war, Charles, both for reward of services and with the hope of strengthening himself for the prosecution of his designs, distributed a number of political honours; and Lord Ashley was

[1] Archives of French Foreign Office. [2] Ibid.

among the favoured. He was now made Earl of Shaftesbury, and Baron Cooper of Pawlett. The date of the patent of his earldom is April 23, 1672. About the same time Lord Arlington was made an Earl, Lauderdale, a Scotch Earl, was made Duke in the Scotch peerage, and Clifford, who till now was Sir Thomas Clifford, a knight, was made Lord Clifford of Chudleigh. The Earl of Essex, the Marquis of Worcester, Lord Falconbridge (Cromwell's son-in-law), and Lord Halifax were made Privy Councillors; and Garters were given to Lauderdale, Essex, Worcester, and the Earl of St. Albans, the Lord Chamberlain. Essex, Falconbridge, and Halifax were soon declared opponents of Charles's policy and the French alliance.

The war began at sea with a hard-fought battle off the English coast, near Southwold Bay, in which, on the side of the Allies, the English fleet bore the brunt of the attack of that of the Dutch, which lasted two days, the thirtieth and thirty-first of May, and which ended without decisive victory on either side. But by land Louis XIV. quickly achieved great results. He invaded Holland, became master of three of the seven provinces, and, having taken Arnheim, Naerden, Utrecht, Daventer, Zutphen, and Nimeguen, now threatened Amsterdam. Ruin seemed imminent for the Dutch republic. It was determined at the Hague to send four deputies to England and four to the King of France, to seek peace. Charles at once resolved to refuse to receive the Dutch envoys, and to declare that he would do nothing but in concert with France. Lord Halifax was now selected for a mission to the French

king, partly complimentary, to congratulate Louis on the birth of a prince, but also with the object of ascertaining the views of Louis about peace.[1] But, before Halifax left, it was determined to send a mission of greater weight, and Buckingham and Arlington were sent with him. Buckingham had been urging peace and a separate arrangement with the Dutch; and Charles thought it well to humour him by sending him to Louis to arrange a treaty of peace, if possible, and he sent Arlington with him, to act as a check on him.[2] Colbert wrote that, as Buckingham was much in debt, it was absolutely necessary for Louis to give him a considerable sum of money to gain him for his object. Of Arlington he wrote: "You have in his person the law and the prophets of England; he has more honour and merit than any one else I have met in this country, and his credit is established on almost as solid foundations as the crown." In this despatch of Colbert of June 20, 1672, addressed to the Under-Secretary, M. de Pomponne, he takes care to say: "Take note that it must be remembered that Buckingham knows nothing of the Roman Catholic question, and that care must be taken not to speak of it to him

[1] Colbert, June 10, 1672, in Archives of French Foreign Office. Colbert's account at this time of Halifax, now a young man, hereafter to become celebrated, is interesting. "Milord Halifax a de la qualité, de grands biens, et beaucoup d'esprit; il a même temoigné par sa conduite envers moi le grand respect et la vénération qu'il a pour le Roi notre Maître, mais il m'a paru jusques à présent assez contraire à la bonne union qui est entre la France et l'Angleterre. J'espère qu'il reviendra avec d'autres sentimens ainsi que tous les autres qui ont eu l'honneur d'entretenir sa Majesté."

[2] Colbert, June 20, 1672, ibid. Colbert had reported some time before, April 11, that Charles had told Arlington he should shortly engage Buckingham in "the great affair:" so the Duke of York may have been authorized by the King to let Buckingham into the secret.

either in private or in conference. Mind and warn M. de Louvois." But before Colbert sent off his despatch he learnt that the Duke of York had told Buckingham the great secret. He gives this information in a postscript, saying, at the same time, that it would be better not to touch upon the subject with him, unless Arlington approved. Colbert had previously apprised Louvois, by Arlington's desire, that Halifax was ignorant of "the great affair."[1] Buckingham, Arlington, and Halifax went to the French King at his camp at Heeswick; the Duke of Monmouth, who commanded a force of six thousand British soldiers, was joined with them as plenipotentiary, and they concluded a treaty with Louis on July 6, renewing the engagements of the treaty of February 2, the two Kings binding themselves again "to hearken to no proposition of peace without immediately communicating the same to each other, and not to enter upon any offers separately made to them for their advantage, and to accept of no satisfaction unless the other King be fully content with what is offered him," and promising "to agree together on conditions on which they are willing to make a peace, which may be secure and honourable, and that they will not consent to any accommodation with the States-General, unless the said conditions be yielded to them." Louis thus carried his object, and secured to himself the continued fidelity and concert of Charles. The terms agreed upon by Louis and Charles were summarily

[1] Colbert, June 12, 1672. "Milord Arlington m'a prié de vous avertir que Milord Halifax qui va trouver le Roi ne sait rien de la grande affaire."

rejected by Holland, acting under the advice and inspiration of the young Prince of Orange, the future King of England.

It appears likely that, in the course of the year 1672, and probably after he was made an Earl, Shaftesbury obtained, for the first time, knowledge that the King was a Roman Catholic. It is now well known to us that he was a Roman Catholic before the Restoration, and that, as early as 1662, he authorized secret overtures to the Pope for re-establishing the Roman Catholic religion in England. But Charles, though often burning to proclaim his religion, and sometimes indiscreetly betraying it to individuals, was compelled to keep the secret until his death. That he had endeavoured, in 1662, to make terms with the Pope, is a secret discovered only within the last few years.[1] The negotiations for the same object, ending in the treaty with France of 1670, have been in the main longer known. But these did not become generally and authentically known till long after Charles's death.[2] They were at

[1] See the Italian pamphlet of Father Boerio, published in 1863 at Rome, already referred to in page 17 of this volume.

[2] This first became fully known to the public by Sir John Dalrymple's publications from the French Foreign Office in 1773; and his work was soon followed by Macpherson's Original Papers, containing extracts from James II.'s manuscripts, published in 1775. An account of the secret Treaty of 1670 had been published in 1682 in Italian and in French, at the instigation of Louis XIV., by the Abbé Primi, but the book was immediately suppressed at the instance of Lord Preston, the English Ambassador at Paris. The substance of Primi's statements was published in England immediately after the Revolution. But Hume, who published his volumes of Charles II.'s reign in 1756, made no allusion to Primi's work or to the secret treaty. Burnet refers to Primi's book (Own Time, i. 503); and so does Edmund Calamy in his Autobiography, written before 1731 (Life and Times, i. 69). Calamy, in the same passage, mentions a sermon of Archbishop King, preached in Dublin in 1691, in which he gave an account of the treaty derived

the time, as has been already explained, secret to most of his leading Ministers, including Shaftesbury. It rests on the authority of Stringer that, in the course of the year 1672, Shaftesbury became aware that Charles was a Roman Catholic. Going one day with Stringer to the Treasury Chambers at Whitehall, Shaftesbury was sent for by the King to Arlington's house: it was after dinner, and he found the King disposed to talk freely under the influence of wine. Charles revealed his predilection for the Roman Catholic faith, as, according to Burnet, he had indiscreetly made it known to his nephew the Prince of Orange in 1669, and as he had practically confessed his inclination for an infallible Pope to Burnet himself.[1] Shaftesbury told Stringer the next morning of the conversation, and "expressed his trouble at the black cloud which, he said, was gathering over England."[2] Later, Buckingham and Lauderdale severally informed him of their having on different occasions seen Charles at prayers in the Queen's chapel.[3]

It may be taken for granted that Shaftesbury knew, shortly after the beginning of the Dutch war, that Charles was privately a Roman Catholic, and he may have learnt this in other ways than those indicated by Stringer. In the excitement and elation of expected

from a paper found in Lord Tyrconnel's closet. The treaty itself was first published by Dr. Lingard in 1830. Mr. Hallam has left it in some uncertainty as to whether Charles's negotiations with France went so far in their object as the establishment of the Roman Catholic religion in England (Const. Hist. of Engl. ii. 521); but M. Mignet's work, and the Memoir by Colbert published in Appendix II. of this volume, remove all doubt on this subject.

[1] Own Time, i. 475, ii. 22. [2] Martyn's Life, i. 402.

[3] Martyn's Life, i. 403. Stringer's Fragment of Memoir in Appendix III.

success, Charles had become more than usually indiscreet. He had shortly before sent a messenger to the Queen-Mother of Spain to tell her, as a secret, that he was a Roman Catholic; and, Spain's interest and sympathies being decidedly with Holland, the Queen simply expressed, as a Roman Catholic, satisfaction at the news.[1] Though the declaration of Charles's being a Roman Catholic was postponed till after success against Holland, Charles continued keen and active in preparation. In March, Colbert wrote to the French that Charles wanted to have the French General, Schomberg, near him, for reasons known to the King of France, and that he wished Louis also to send over to England "a skilful doctor in theology, who is versed in ecclesiastical history, the Councils and the Fathers, some man in fine of great talent, with whom the King could communicate, and from whom he might gain the necessary lights for his declaration of Catholicism, and the conversion of his subjects, and that this man should also have some knowledge of chemistry, or of some other science which could serve as introduction and cloak for more solid conversation."[2] He proposed at this time to send an ecclesiastic to Rome to negotiate with the Pope, and he begged Colbert to write to the French King to engage the earnest co-operation of the Bishop of Laon, who was already in the secret.[3] Of the secret Treaty of 1670, and of Charles's designs as to the Roman Catholic religion, it is certain that Shaftesbury as yet

[1] Colbert, March 14, 1672, in Archives of French Foreign Office.
[2] Colbert, March 21, 1672, ibid.
[3] Colbert to Louis XIV., May 9, 1672, ibid.

knew nothing. Buckingham, we have seen, had been told this great secret in June, on the eve of his mission to the French King. To Shaftesbury, there is every reason to believe, that the secret was never told by the King, or with his knowledge; but there is reason to believe that he was told it confidentially a year later by Arlington, when Arlington trembled and quailed before the violent opposition of the House of Commons and the public excitement against Popery, and that the knowledge then thus obtained by him decided Shaftesbury's opposition to Charles's policy, his sacrifice of the Declaration of Indulgence, and his advocacy of the Test Act.

The office of Lord Treasurer was still in Commission, under the arrangement made five years before, after the death of the Earl of Southampton in 1667, and Shaftesbury continued to hold the office of Chancellor of the Exchequer and to be one of the Commissioners, Clifford being another. The King, soon after making Ashley Earl of Shaftesbury, proposed to make him Lord Treasurer. Mr. Stringer, who informs us of this offer, represents it as a scheme of the King and his Roman Catholic counsellors and coadjutors to entrap and injure Shaftesbury, and gives a very minute and extraordinary account of the persistent manner in which the office was pressed on Shaftesbury, and of his determination to escape from what he regarded as a burdensome and dangerous honour. Mr. Stringer's account may be read at the end of the volume.[1] Some of its details are obviously erroneous; as, for instance, the alleged inten-

[1] Appendix III.

tion of fining Shaftesbury for a high contempt if he refused to undertake the office. There is a statement by Mr. Martyn, which does not appear in the fragment of Stringer's Memoir printed in the Appendix, but which he would have derived from some other paper at St. Giles's, that Stringer himself accompanied Shaftesbury in a tour of visits in the country and a stay at St. Giles's, which consumed nearly two months, and which were planned in order to be out of the way of pressure on the subject of the Lord Treasurership. "Our Earl," says Stringer, "having some information on Friday that the King had agreed to deliver that staff unto him the Sunday following, went out of town the Saturday before to the Lady Northumberland's, at Petworth, where he stayed near a week; from thence he went unto Colonel Norton's at Southwark, and stayed there three or four days; from thence to Mr. Noel's (afterwards the Earl of Gainsborough), at Tichfield, and from thence to his own house at St. Giles's, where he stayed five or six weeks before he returned to London, and by that time the business of his being Treasurer was at an end." That the Lord Treasurership was now offered to Shaftesbury cannot, I think, be doubted. Stringer's statement is too minute and circumstantial to be without foundation. The office was suitable to the higher rank in the peerage which had lately been conferred on Shaftesbury; and his peculiar abilities and his experience at the Treasury made him specially fit for the office. It is probable that Charles's object was to bind Shaftesbury more closely to him, and thoroughly secure his support in the great scheme of

establishing the Roman Catholic religion. It is impossible that Shaftesbury was insensible to the dignity and importance of the office which he refused; and it may be taken for granted that the suspension of payments by the Exchequer, which he had unsuccessfully opposed, was a chief reason for his refusal. He says, in his letter of self-defence to Locke, that, from the moment of the stop, he, with Sir John Duncombe, another Commissioner, "instantly quitted all paying and borrowing of money, and the whole transaction of that part of the office to the Lord Clifford;" and he further speaks of the stop of the Exchequer as "the prologue of making the Lord Clifford Lord Treasurer." The stop of the Exchequer would have been reason enough for his refusal.

Parliament all this while had not sat since April 1671. On the twenty-second of that month it had been prorogued until April 16 of this year, and there had been a further prorogation from April 16 to the thirtieth of October. As the day to which Parliament stood prorogued approached, Louis became anxious for a further prorogation. Colbert was instructed to represent to Charles the desire of the French King for a further prorogation till the beginning of 1673. Charles agreed with Louis, but he sadly needed money. There was a difference of opinion also among his advisers. The Duke of York and the Duke of Buckingham were against a further prorogation.[1] In the end it was agreed to prorogue till February 4, 1673.

[1] Colbert, September 5, 1672, in Archives of French Foreign Office. It was necessary to find 233,000*l.* for the fleet in October. Arlington asked Colbert for a loan of a million of francs from the French king.

On September 27, 1672, Shaftesbury was appointed President of the Council of Trade and Plantations which had been created two years before, chiefly through his advice; and in this office he succeeded the Earl of Sandwich, the Admiral Edward Montagu of the Protectorate and the Restoration, who had perished in the naval battle of Southwold Bay, in May. Shaftesbury held this office till April 1676: the salary was 800*l.* a year. There was a Vice-President, Lord Culpeper, and nine other members of the Council, among whom the only two of much note are Edmund Waller, the poet, and John Evelyn. Locke was appointed Secretary of this Council in June 1673, with a salary of 500*l.* a year.

A yet greater dignity awaited Shaftesbury, the highest secular office in the State. He had refused to be Lord Treasurer; he became Lord Chancellor. The great seal was given to Shaftesbury on November 17, 1672; it was taken for this purpose from Sir Orlando Bridgman, who had been only Lord Keeper, and had not been made a Peer. Bridgman had not for some time past been a leading councillor, and he had given dissatisfaction to the King by opposition to some of the recent measures. At the beginning of the Buckingham-Arlington administration of 1667, Bridgman appears to have been much consulted, and to have had influence; he had aided Arlington in effecting the Triple Alliance, and had co-operated with Buckingham for religious comprehension. But after the beginning of the complicated intrigues for the French alliance, he was laid aside in politics. The great secrets were not confided to him. It is stated, and probably with truth, that he

had made difficulties about affixing the great seal to the Declaration for Indulgence, and that his objections, which probably applied only to the Roman Catholics, were removed by the addition of a proviso that they were not to be allowed the privilege of public worship.[1] Burnet's actual statement must be incorrect, for he says that Bridgman refused to put the great seal to the Declaration for Indulgence, and was thereupon instantly dismissed. Instantly dismissed he was not, for the Declaration, duly sealed, was issued eight months before he ceased to be Lord Keeper. It is very unlikely that he stood by, and allowed the great seal to be affixed by another. The statement in the "Letter from a Person of Quality" is professedly derived from Shaftesbury himself, who is merely said to have told the author that the mention of Papists in the Declaration was owing to the vanity of the Lord Keeper. The error about Bridgman's refusal to put the great seal to this Declaration, if it be an error, as is most probable, came very early into existence; for Colbert, writing a year after, March 16, 1673 says that Parliament was expected, after having condemned the Declaration, to attack Shaftesbury for affixing the seal, which the preceding Lord Keeper had been unwilling to do.[2] Bridgman is also said to have made difficulties about issuing a commission for governing by martial law the army to be raised for invasion of Holland, and about protecting the bankers, whom the Stop of the Exchequer had caused

[1] Burnet's Own Time, i. 535. "Letter from a Person of Quality," in Locke's Works, x. 201.
[2] Archives of French Foreign Office.

to suspend payments, against suits by their clients.[1] North states that Bridgman was unwilling to grant an injunction in Chancery to stay such suits, and gives a conjectural account, for he avows it to be conjectural, of Shaftesbury's urging the King to get rid of Bridgman, and promising, if he would make him Lord Chancellor, to do everything he wanted.[2] Lord Campbell has adopted North's imaginary account, enriched it as on other occasions with many lively details imagined by himself, and has seemed to fortify the statement of Bridgman's refusal to grant an injunction by a note of reference to "Reports in Chancery." But on referring to the case which Lord Campbell indicates, it is found not to be a case before Lord Keeper Bridgman, but a case belonging to 6 Car. I., *i.e.* the year 1631; and it is not even a case in point. What is probably true is that Bridgman refused, not to grant an injunction in Chancery, but to sanction a declaration under the great seal for the protection of the bankers. The French Ambassador Colbert wrote to Paris that Bridgman's

[1] North's Examen, p. 38.

[2] Roger North's exact words should be given. Speaking of Bridgman's scruples, he says: "All this while the Lord Shaftesbury (that is, before his promotion to the great seal) lay behind the curtain, and probably (for, though I believe, I cannot say I know it) urged these points to the King as necessary for his affairs and practicable, and that it was only a morose scrupulosity and humour in his old Keeper that made him averse to passing them; and that his Majesty was under a necessity to displace him, and find another more complaisant in his room. And what is more easy to be conceived than that his Lordship might add that, rather than fail, if his Majesty would command his service in that place, he would undertake it and perform all and upon the main order affairs so as the Parliament at their meeting should give his Majesty no disturbance." (Examen, p. 39.) This is very unsatisfactory material for history; but Lord Campbell has assumed all this conjecture to be fact. North wrote some time after 1706, the date of publication of Bishop Kennet's History, of which the Examen is a criticism.

disgrace was chiefly attributable to his refusal to seal a Declaration prohibiting parties from suing the bankers for the space of one year for principal, but permitting suits for interest, and that he refused to sanction such a Declaration as being contrary to the laws of England. There is of course a very great difference between a declaration or proclamation issued by the King and an injunction in Chancery.[1]

I believe the truth to be, as between Bridgman and Shaftesbury, that the former had made difficulties about putting the Great Seal to the Declaration for Indulgence issued in March, but that he had put it there, and there was no occasion to call on Shaftesbury to do so; that as regards protection of the bankers against their clients, Bridgman refused to put the Great Seal to a suggested Declaration for stopping suits, and that Shaftesbury never did this, and that there is no evidence of his having been asked to do it: that no injunction in Chancery was moved for while Bridgman was Keeper of the Great Seal, while Shaftesbury, as will be seen in the next chapter, was applied to for an injunction, and granted one provisionally and conditionally, subject to cause being afterwards shown against it. It may be at

[1] In the Life of Lord Keeper Bridgman, Lord Campbell gives a long account, whence obtained I do not know, of the application to Bridgman, on the part of the bankers, for an injunction in Chancery, and he refers in a note to "Reports in Chancery," i. 24. The case thus referred to, which is reported at p. 24 of vol. i. of "Reports of Cases in Chancery," 3 vols. 4to. 1736, is the case of Mayor of London, &c., *contra* Bennet, a case not before Lord Keeper Bridgman or even of the reign of Charles II., but a case of the year 6 Car. I., *i.e.* 1631, and is not a case of an injunction to stop suits of clients against bankers, but of injunction to stop suits of bankers against the King. Considering Lord Campbell's high qualifications as a lawyer and a judge, this is perhaps as extraordinary an instance as any of his biographies can furnish of his carelessness as a biographer.

once added here that no just exception can be taken to what Shaftesbury did next year as to the injunction.

Colbert rejoiced in Bridgman's removal and Shaftesbury's elevation. "Besides," he wrote, "that he [Bridgman] has in my opinion well merited his disgrace, he has also appeared to me in all our intercourse so cold and wanting in zeal for the King his master's interest, and so averse to the good union now existing between France and England, that I consider this change as advantageous for us as it is for his Britannic Majesty, whose wishes and intentions will be implicitly followed by the Earl of Shaftesbury."[1] When a year later Shaftesbury was deprived of the great seal, the same Colbert's vituperation of him was unmeasured.

Shaftesbury, who was Chancellor of the Exchequer and a Commissioner of the Treasury, having been made Lord Chancellor, Clifford a few days after received the appointment of Lord Treasurer. It was one of Shaftesbury's first ceremonial duties as Lord Chancellor to preside at the swearing in of Lord Clifford as Lord Treasurer; and he delivered on the occasion a skilful speech of compliment, which he took care to publish.[2] Arlington had desired the post of Lord Treasurer, and felt hurt at being passed over by a younger man and statesman, who had owed to himself his earlier political advancement. Charles told the Duke of York that he did not think Arlington fit for the post, and that it would have been unkindness to let him have it.[3] It is true that Clifford had had a long experience as one of

[1] Colbert, November 13, 1672, in Archives of French Foreign Office.
[2] See the speech in Appendix V.
[3] Life of James, i. 482.

the Commissioners of the Treasury; and he was the author of the Stop of the Exchequer.[1]

Though since the Restoration the great seal had been always in the keeping of a lawyer, the office of Lord Chancellor or Lord Keeper had not been as yet for so long a period a lawyer's monopoly that the appointment of one not regularly bred to the law excited disapproval or surprise. It is mentioned in the Life of Lord Orrery, a lay nobleman, that when Lord Chancellor Clarendon was dismissed in 1667, the Duke and Duchess of York both urged him to apply to be made Lord Chancellor.[2] The Earl of Anglesey, the Arthur Annesley of the Civil Wars, is said to have been in such great favour with James the Second at the time of his death in 1686, that

[1] Arlington was certainly disappointed on this occasion, and he complained to his friend Evelyn of Clifford. (Evelyn's Diary, July 18, 1673.) Colbert writes, November 28, 1672, that it was rumoured that the King intended to make Arlington a Duke. I found at Longleat an interesting private correspondence of Mr. Thomas Thynne, afterwards Viscount Weymouth, with Sir William Coventry: Thynne was Coventry's nephew and also nephew of Shaftesbury's first wife, Lord Coventry's daughter. Some of Thynne's gossip is interesting. He now writes, December 4, 1672: "Lord Arlington is defeated in all his pretensions. He hath employed men to find precedents that the Privy Seal and Secretaryship are consistent: he has found two, that Cromwell was Privy Seal and Secretary, and that Burleigh was Treasurer and Secretary, but he speedeth no better in that than in his hopes of a dukedom. Chancellor [Shaftesbury], Treasurer [Clifford], and Lauderdale keep firm, and seem to resolve to let him have nothing they can hinder him of. Buckingham is the last man of the nation, out with King and everybody else." And again on December 12 Thynne writes to Coventry: "I do not hear any reason why the Treasury was changed, unless that my Lord Treasurer had a mind to a white staff as well as my Lord Chancellor to the seals, for inconvenience I never heard the Commission charged with. Possibly the purse is now so empty that it cannot afford having three hands in it. The King yesterday in Council continued the stop of the Exchequer till May next, and also adjourned the debate concerning hackney coaches till after Christmas." (Longleat Papers, unpublished.)

[2] Morrice's Memoirs of Roger Earl of Orrery, prefixed to his State Letters, p. 76.

it was fully expected he would be made Lord Chancellor;[1] and a correspondent of Sir Joseph Williamson wrote, when a year later Shaftesbury was deprived of the great seal, that the same Anglesey was much disappointed at not being Shaftesbury's successor.[2]

The Earldom and the Lord Chancellorship were crowning signs and results of a greatness which had been growing, since Shaftesbury was taken into the King's councils for a French alliance for a war against Holland. The public did not know, as Shaftesbury did not know himself, that the King was making use of his energy, abilities, and influence, for the furtherance of a design, known only to some half-dozen in England, for re-establishing the Roman Catholic religion with the aid of French money and troops. He had received in March 1672, before he was made Earl of Shaftesbury, the following letter from Sir William Morrice. It would appear from this letter that he had conferred some favour on Morrice. Shaftesbury's reputation has been so blackened by misrepresentation, that it is important to print the following letter, giving proof as it does of the friendship and respect felt for him by one with whom he had been long associated in public affairs, with whom he had acted for the Restoration, who had been his colleague as a Minister for eight years afterwards, and who was a man of learning and ability, honest and well-conditioned.

[1] Some Memoirs of Earl of Anglesey by Sir Peter Pett, 1693, in he Epistle Dedicatory.

[2] Mr. Bridgman to Sir J. Williamson, Nov. 10, 1673, in State Paper Office. This is one of a very interesting collection of letters addressed from London in 1673 and 1674 to Sir Joseph Williamson, while he was at Cologne as Plenipotentiary with Sir Leoline Jenkins.

"*March* 29, 1672.

"MY LORD,—I am not willing to retrench your precious time from great employments, yet I hope you will easier pardon my trespass upon modesty than I could forgive myself that upon gratitude. I do therefore make my thankful acknowledgment of your great favour towards me, which bears the stamp of divine grace, being not confined for merit; you have revived miracles, reconciling love to truth, and have fixed kindness upon persons which used to be volatile with fortune, and have made friendship, that herb of grace, to flourish in Court air. May my acclamations enlarge your honour and my votes your felicity, which you may be sure are hearty, for my honour is by your reflection, and my happiness complicate with yours, whom obscurity has left no patron, and infirm age no pillar, beneath heaven, save your favour, which has never failed me in my exigence, and I hope will support me in all occasions; and though there be nothing in me to merit it, yet you will find enough in yourself to continue it, even the goodness of your nature and the constancy of your friendship unto

"Your faithful and assured friend,

"W. MORRICE."

When Lord Ashley was in April raised in the peerage to be Earl of Shaftesbury, Sir William Morrice probably wrote to congratulate him. The following from Shaftesbury to Morrice has the appearance of a reply to a letter of compliment:—

"*May* 22, 1672.

"MY DEAR FRIEND,—I must ever acknowledge your kindness to me, and that I owe you more than any subject alive: you have ever paid me all the friendship

imaginable, and I am not sensible of anything more in my whole life than that I am thus parted from you and cannot enjoy the happiness of your converse, but I must beg you will ever be assured that you have not in the world any more sincerely yours than is

"Your most obedient humble servant,

"SHAFTESBURY."

The following is a reply of Shaftesbury to a letter of congratulation on his appointment as Lord Chancellor, from the Earl of Essex, who had lately been made Lord Lieutenant of Ireland. Essex was Shaftesbury's junior by about twenty years. There was a family connexion between them, for the mother of Essex was the daughter of Sir Charles Morrison of Cashiobury, and her mother, Lady Morrison, became, as a widow, the second wife of Sir John Cooper, Shaftesbury's father.[1] He had been appointed Lord Lieutenant in August of this year.

"EXETER HOUSE, 13*th November*, 1672.

"MY LORD,—I return my humble thanks to your Excellency for the favour and honour of your congratulation. I assure your Excellency the King could not have put a man in this place more your servant; and yet putting your letter and postscript together, I cannot but apprehend I have been misrepresented from hence to you as one that has spoken against yourself, or some of your proceedings. If so, give me leave to say your intelligence out of England has not been so good as your Excellency ought to have, for I am sure the direct contrary is only true. I am the more jealous that this has been so, because I have been served in like

[1] See vol. i. p. 6.

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manner with several other persons, and upon several other occasions, by some worthy persons here that are exceedingly skilful in these lesser arts, but can do no business. Besides, my stars have not been very propitious as to Irish affairs and governors; but I rely on your wisdom and goodness to overrule those stars, and that you would believe it impossible to me not to be infinitely ambitious of your friendship, while you please to allow it me. I shall never omit anything that may make it appear how truly I am,

"Your Excellency's very faithful friend and servant,

"SHAFTESBURY."

The following list of Lord Shaftesbury's wardrobe in July 1672, is interesting in reference to himself, and is curious as a memorial of costume.

Account of my Lord's Wardrobe, taken from Mr. Prince, this 1st of July, 1672.

Imprimis—A light-coloured camlet suit with silver and gold lace, stocking and knots to the same.

A shoulder belt with gold and silver fringe.

A waste belt stitched with silver and gold, and a sword to the same.

Item—A silk suit with pantaloons, stocking, and knots.

Item—A light-coloured stuff suit, with black and silver lace, stocking, buckle, garters set with stones, and shoe buckles.

Item—A sad-colour camlet coat, stuff breeches, waste belt, stocking, and knots.

Item—A black velvet coat, paduasoy[1] suit laced, and a laced girdle belt.

[1] *Paduasoy*, a silk first manufactured at Padua:

"Your only wearing is your paduasoy."

POPE'S *Donne's Satires Versified*, iv. 113.

A black cloth suit and coat lined with silk, and shag pantaloons with knots and garters.

A black cloth suit with ribbon round the knees, garters and knots to the same.

A new farwendine[1] suit and coat, with garters, knots and waist belt.

Item—An old farwendine suit, laced, with garters and knots.

A black fringed shoulder belt.

A black silk shoulder belt, with black embroidery.

A black sword and belt.

A parliament sword and belt.

A waist belt stitched with silver, and an old silver sword.

A new silver sword.

Two pair of gloves with gold fringe.

One pair ditto with silver fringe.

Three pair ditto with black silk fringe.

Three black beavers, one coloured ditto.

Two pair white worsted hose.

One pair large black silk hose, for the gout.

Two scarlet waistcoats.

Two pair scarlet drawers.

One velvet riding cap.

One black silk helmet cap.
Two silk under caps.
One linen under cap.
} All of Mr. Povey's.

We have now reached the culminating point of

[1] Farrendine, or ferrandine. There is uncertainty as to the precise nature of this material. Mr. Wright, in his "Dictionary of Obsolete Words," describes it as a coarse sort of stuff. From resemblance to the French word *ferrandine*, a silk stuff, some have thought it to be a kind of silk; others think it was cloth, and so named from Farringdon in Berkshire, a county formerly celebrated for its woollen manufactures. Pepys speaks of "Mrs. Pepys's new ferrandine waistcoat." (Diary, ii. 103.)

Shaftesbury's greatness, when he is made Lord Chancellor of England; and I will here collect some stray miscellaneous notices of him during the period between the Restoration and his becoming Lord Chancellor.

Two stories illustrative of his sagacity and quickness are told in the rough Memoir left by Locke. One is that he guessed the marriage of Clarendon's daughter to the Duke of York before it was suspected by others. "Soon after the restoration of King Charles the Second, the Earl of Southampton and he having dined together at the Chancellor's, as they were returning home he said to my Lord Southampton, 'Yonder Mrs. Ann Hyde (for so as I remember he styled her) is certainly married to one of the brothers.' The Earl, who was a friend to the Chancellor, treated this as a chimera, and asked him how so wild a fancy could get into his head. 'Assure yourself, sir,' replied he, 'it is so. A concealed respect, however suppressed, showed itself so plainly in the looks, voice, and manner wherewith her mother carved to her, or offered her of every dish, that it is impossible but it must be so.' My Lord Southampton, who thought it a groundless conceit then, was not long after convinced by the Duke of York's owning of her that Lord Ashley was no bad guesser."[1] It is to be inferred that this story was told by Shaftesbury himself to the narrator. There is a casual confirmation of this story in a note of Lord Dartmouth in Burnet's History, where it is said that Shaftesbury had told Sir Michael Wharton, who told Lord Dartmouth, that "he had observed a respect from Lord Clarendon and his lady to their daughter, that was

[1] Locke's Works, ix. 274.

very unusual from parents to their children, which gave him a jealousy she was married to one of the brothers, but he suspected the King most."[1] The second story is of Lord Ashley and Sir Richard Onslow having been invited to dinner by Sir John Denham, in order that he might have their advice about a project he had of marrying his housekeeper. The serious question having been formally opened to them for their opinion, Sir Richard Onslow was going to reply, when Lord Ashley interrupted him "by asking Sir John a question which, in short, was this, 'whether he were not already married?' Sir John, after a little demur, answered, 'Yes truly, he was married the day before.'" Lord Ashley immediately replied that there was no need of their advice, and begged to be presented to the lady. "As they were returning to London in their coach, 'I am obliged to you,' said Sir Richard, 'for preventing my running into a discourse which could never have been forgiven me, if I had spoke out what I was going to say. But as for Sir John, he, methinks, ought to cut your throat for your civil question. How could it possibly enter into your head to ask a man who had solemnly invited us on purpose to have our advice about a marriage he intended, had gravely proposed the woman to us, and suffered us seriously to enter into the debate whether he was already married or no?' 'The man and the manner,' replied Sir Anthony, 'gave me suspicion that, having done a foolish thing, he was desirous of covering himself with the authority of our advice. I thought it good to be sure before you went any farther, and you see what came of

[1] Burnet's Own Time, i. 108.

it.'" Sir John Denham's second marriage, a very unhappy one, was in 1665. The lady whom he married was well connected, a daughter of Sir William Brooke, and niece of the Earl of Bristol, but she had led an irregular life and been mistress to the Duke of York, who continued to intrigue with her after her marriage.

Le Clerc relates a story of Locke's playfulness in Lord Ashley's house, shortly after the commencement of their friendship. Several noblemen sat down one evening to cards at Lord Ashley's, and were absorbed in their game. Locke, after a little, took out a pocket-book, and began to write. One of the card-players asked him what he was writing. Locke replied, that having at last found himself among some of the ablest and wittiest men of the age, he desired to profit to the utmost by their conversation by writing it down. The cards were soon abandoned for conversation.[1]

It has been already told that Samuel Pepys dined at Lord Ashley's on the twenty-third of September, 1667;[2] and he records some of the conversation at dinner, Lord Ashley discoursing of law and politics, and Lady Ashley of glass-coaches.

"At my Lord Ashley's by invitation to dine there. At table it is worth remembering that my Lord tells us that the House of Lords is the last appeal that a man can make upon a point of interpretation of the law, and that therein they are above the Judges, and that he did assert this in the Lords' House upon the late occasion of the quarrel between my Lord Bristol and the Chancellor, when the former did accuse the

[1] Bibliothèque Choisie, vol. vi. [2] See vol. i. p. 284.

latter of treason, and the Judges did bring it in not to be treason; my Lord Ashley did declare that the judgment of the Judges was nothing in the presence of their Lordships, but only as far as they were the properest men to bring precedents; but not to interpret the law to their Lordships, but only the inducements of their persuasions: and this the Lords did concur in. Another pretty thing was my Lady Ashley's speaking of the bad qualities of glass-coaches; among others, the flying open of the doors upon any great shake; but another was, that my Lady Peterborough being in her glass-coach, with the glass up, and seeing a lady pass by in a coach whom she would salute, the glass was so clear that she thought it had been open, and so ran her head through the glass!"

It has been already mentioned that before dinner on this occasion, and before Lord Ashley joined him, Pepys peeped into the accounts of the prizes, and was on the whole satisfied with the distribution of the moneys. After Lord Ashley had entered, they went into the business of a man named Yeabsly, who had a claim in connexion with Tangier, and who, according to Pepys, had bribed Lord Ashley with one hundred pounds. This is stated by Pepys on several occasions. On May 20, 1666, Pepys writes, "I discoursed awhile with Mr. Yeabsly, whom I met and took up in my coach with me, and who hath this day presented my Lord Ashley with 100*l.* to bespeak his friendship to him in his accounts now before us; and my Lord hath received it, and so I believe is as bad as to bribes as what the world says of him." The next day Pepys watches, as he thinks, the working of the bribe:

"I away in some haste to my Lord Ashley, where it is stupendous to see how favourably and yet closely my Lord Ashley carries himself to Mr. Yeabsly in his business, so as I think we shall do his business for him in very good manner. But it is a most extraordinary thing to observe, and that which I would not but have had the observation of for a good deal of money." Again, on May 30, "To Lord Ashley, who it is strange to see how prettily he dissembles his favour to Yeabsly's business, which none in the world could mistrust, only I that am privy to his being bribed." On June 14, Pepys mentions that the Committee for Tangier passed the greater part of Yeabsly's account, upwards of 7,000*l.*, "which was mighty joy to me. But I must observe the force of money, which did make my Lord Ashley to argue and behave himself in the business with the greatest friendship and yet with all the discretion imaginable, and it will be a business of admonition and instruction to me concerning him and other men too, for aught I know, as long as I live." And lastly, on the occasion of Pepys dining with Lord Ashley, "By and by my Lord came, and we did look over Yeabsly's business a little; and I find how prettily this cunning Lord can be partial and dissemble it in this case, being privy to the bribe he is to receive." These statements rest entirely on the word of Yeabsly, and it would not seem to have been worth Lord Ashley's while to tarnish his reputation for so small a sum, if he were not in the habit of making money in this way. What Pepys, with a foregone conclusion in his mind, thought the perfection of dissembling, may have been perfect inno-

cence. Pepys, it is true, seems to say on another occasion that Lord Ashley was greedy of money; he mentions a Captain Cocke as denouncing Lord Ashley and Lord Chancellor Clarendon as thinking only of getting money. "My Lord Treasurer [Southampton] minds his ease and lets things go how they will; if he can have his 8,000*l.* a year and a game at *l'ombre*, he is well. My Lord Chancellor he minds getting of money and nothing else; and my Lord Ashley will rob the devil and the altar, but he will get money if it be to be got."[1] General accusations like this must be received with much mistrust; and it is due to Shaftesbury's reputation to remember that the passages here quoted from Pepys are the only existing imputations against his honour in money matters, and that, amid general venality of Ministers, he is free from suspicion of pecuniary traffic with France, and, amid general rapacity of courtiers, never received a gift from the King.

The bill passed in 1668 for appointing Commissioners for examination of accounts of the first Dutch war was supported by Lord Ashley, who had opposed the similar bill of the previous year; and Pepys relates that Lord Anglesey had told him that "the House of Lords did pass it because it was a senseless, impracticable, inefficient, and foolish act; and that my Lord Ashley having shown that it was so to the House of Lords, the Duke of Buckingham did stand up and told the Lords that they were beholding to my Lord Ashley, that having first commended them for a most grave and

[1] Diary, iii. 83. September 9, 1665.

honourable assembly, he thought it fit for the House to pass this act for accounts because it was a foolish and simple act; and it seems it was passed with but a few in the House, when it was intended to have met in a grand Committee upon it.[1] The explanation of this doubtless is that Ashley did as the King did, and yielded, as to a necessity, to a measure which he had before resisted.

Mr. Martyn relates that Prince Cosmo de Medici, when travelling in England in 1669, was handsomely entertained by Lord Ashley with a dinner purposely dressed in thorough English style; that "the Prince was so well pleased that he desired Lord Ashley to give him the bill of fare, which he kept by him so long, that, when the late Lord Shaftesbury [the third Earl] was at Florence in 1711, and Mr. Molesworth, the British Minister, went to make an excuse for his not going to court, through his ill state of health, the Prince, who was then Great Duke, showed it to Mr. Molesworth." Mr. Martyn adds that the Prince after his return to Italy sent Lord Ashley every year a present of wine.[2]

The next chapter begins and ends with Shaftesbury's Chancellorship.

[1] Diary, January 4, 1668, iv. 314.
[2] Life, i. 383.

CHAPTER XIII.

1672-3.

Short tenure of Chancellorship—Meeting of Parliament, February 21—Chancellor's writs issued during prorogation immediately disputed—The King's and Shaftesbury's speeches on opening Parliament—Official character of Shaftesbury's speech—Absurd story of altercation with the Duke of York—Elections on the Chancellor's writs declared void—Shaftesbury's issuing of the writs supported by precedents and late practice—Letter to Mr. Williams on Chester election—Supply promised—The Commons condemn Declaration of Indulgence—King appeals to the Lords—Address of both Houses against growth of Popery—The King cancels the Declaration—Advice to appeal to the Lords probably given by Shaftesbury—Memorandum of reasons for appeal to the Lords—Arlington the first frightened—Louis XIV. advised Charles to abandon the Declaration—The French Ambassador's joy at the abandonment—The Test Act—Shaftesbury's strong support of it—Arlington suspected of favouring it, and of secretly telling Shaftesbury of the King's engagements about Roman Catholic religion—Clifford's vehement opposition to Test Act—Bishop Burnet's mistakes—Supply granted and the House of Commons pleased—Adjournment of Parliament from March 29 to October 20, 1673—The Duke of York's and Clifford's resignations—Osborne succeeds Clifford—The Blackheath army—Duke of York's marriage with Princess Mary of Modena—Parliament meets October 20 and is prorogued till the 27th—Shaftesbury's official speech on opening Parliament, October 29—Parliament suddenly prorogued, November 4—Shaftesbury's dismissal from Chancellorship—Colbert's account of it—Shaftesbury's opposition to grants to Duchesses of Cleveland and Portsmouth—Shaftesbury's character as a Judge—Roger North and Lord Campbell—Shaftesbury granted injunction *nisi* of suits against the bankers by their clients, and refused to make it absolute on cause shown against—Equestrian procession to Westminster Hall on the first day of term, January 1673—His coloured gown worn as Chancellor—Account of the Lord Chancellor's family—Dryden's eulogium on Shaftesbury as a Judge.

THE Earl of Shaftesbury held the high office of Lord Chancellor but for a short period, not quite a twelve-month. The great seal was given to him on the seven-

teenth of November, 1672, and it was taken away on the ninth of November, 1673.

It will be convenient to describe his political conduct and relate the course of politics during his tenure of the Lord Chancellorship, before speaking of his character and proceedings as a Judge.

Parliament at last assembled on the fourth of February, 1673, after an interval of nearly two years, and all but a twelvemonth after the beginning of the war. During this long suspension of Parliament, great irritation and discontent had sprung up, and the King's advisers now found themselves confronted by a large and formidable opposition, comprised of loyalist Churchmen disturbed by indulgence to Nonconformists, and popular politicians frightened by growth of arbitrary power, both combined in angry and determined hostility.

Shaftesbury, as Chancellor, had before the meeting of Parliament issued writs for the election of thirty-six new members of the House of Commons to fill vacancies caused by death or otherwise during the long suspension of the sitting of Parliament. This proceeding cannot be regarded as the act of Shaftesbury alone; it had the approval of the King and of all with whom he was now acting as a Minister, and, as will be seen, it had much support of precedent and practice. But the issuing of this large number of writs at such a time excited suspicion and opposition; and on the first day of the assembling of the House of Commons, immediately after the choosing of the Speaker, who was to be presented on the day following for the King's approval, the legality of the Chancellor's writs

during the prorogation was sharply called in question, and it was evident that a storm was brewing. The discussion was stopped now, it being generally held, and the Speaker elect ruling, that no business could be proceeded with till the King's approval of the Speaker had been given.[1]

The next day, the King, according to custom on the opening of a session, addressed the two Houses, and it devolved on Shaftesbury as Lord Chancellor to supplement and amplify the King's speech. The King himself spoke shortly and stoutly; he asked for supplies for "a most important, necessary, and expensive war," and for payment of his debts. He defended the Declaration of Indulgence, ending his defence of it by saying, "I shall take it very ill to receive contradiction in what I have done, and I will deal plainly with you, I am resolved to stick to my Declaration." He repelled an insinuation which he said was industriously rumoured that the forces raised for the war "were designed to control law and property," and he wound up with an assurance that he would "preserve the true Reformed Protestant religion and the Church as it is now established in this kingdom, and that no man's property or liberty shall ever be invaded." Then, according to the custom of the time, he said, "I leave the rest to the Chancellor." Hereupon Shaftesbury delivered a long and characteristic speech, in which, following that of the King paragraph by paragraph, he expatiated with his unctuous rhetoric on all its several topics.

[1] Commons' Journals, Feb. 4. North's Examen, p. 56.

The provocations of Holland, her ambition, greediness, and dangerous rivalry, were described by him in a tone pitched for accord with long-standing and deep-seated national prejudice and jealousy. He spoke of the Dutch as the common enemies to all monarchies, and especially to those of England and France, their only rivals in trade and maritime power, their only obstacles to "an universal empire as great as Rome." Referring to the former war against Holland, he intimated that England then was without the alliance which now strengthened her; and he added that then the English people judged that Holland must be put down. "You judged aright," he said, "that at any rate *delenda est Carthago*, that that Government was to be brought down, and therefore the King may well say to you, 'Tis your war.'" In referring to the King's debts Shaftesbury spoke of the Stop of the Exchequer as forced on the King, much against his will, by the insufficiency of former supplies, and he begged Parliament, after voting what was needed for carrying on the war, to provide for payment of what was owing to the bankers with six per cent. interest from the date of the Stop. "The King," he said, "is very much concerned to see this done;" but he added, "and yet he desires you not to mistime it, but that it may have only the second place, and that you will first settle what you intend about the supply." He then dwelt on the King's love of the Church and of mild and gentle ways towards Dissenters, in vindication of the Declaration of Indulgence. He mentioned casually in the course of his speech, that he spoke by

command. He finished with a rhetorical peroration, full of eulogy of the King and of the Parliament.[1]

The strong language of Shaftesbury in this speech against Holland, and especially his application of Cato's *Delenda est Carthago*, have been the cause of great reproach to him. Much unnecessary labour has been expended in proving that the Lord Chancellor spoke this speech as the King's mouthpiece and the organ of the Cabinet. To make an explanatory speech of this sort, by way of supplement to the King's, was then the regular duty of the holder of the great seal, whether Lord Chancellor or only Lord Keeper, and of the Lord Keeper, even though he were not a Peer.

Bridgman, who preceded Shaftesbury, had simply been Lord Keeper of the great seal, and not a Peer; and he had performed the same duty of following and enlarging on the King's speech. Finch, who followed Shaftesbury, did the same duty as Lord Keeper on the opening of Parliament in January 1674, before he was made a Peer. The custom existed before the Civil War. Shaftesbury, when he took his seat in his nineteenth year in the short Parliament of 1640, had heard his father-in-law, the Lord Keeper Lord Coventry, address the two Houses in like manner for the King. Coventry had again spoken in like manner by the King's command on the opening of the memorable Long Parliament. The custom continued under the Protectorate. The first Commissioner of the great seal, Fiennes, had spoken in this manner both for Oliver

[1] This speech is printed in Appendix V.

and for Richard Cromwell. There is no doubt, therefore, that this speech was an official exposition of the opinions of the King and Cabinet. But were they Shaftesbury's opinions, or how far could he properly enforce them? Here both Shaftesbury's accusers and defenders have done him injustice. He has been accused of basely advocating measures to which he was opposed. "No part of his speech," says Burnet, "was more amazing than that speaking of the war with the Dutch, he said, *Delenda est Carthago*. Yet, while he made a base, complying speech in favour of the Court and of the war, he was in a secret management with another party."[1] The defence made for him has been that the speech was not his, but the King's. But surely, if he was entirely opposed to all the King's policy and measures, he should not and could not have been Lord Chancellor to make the speech. The fact is, however, that Shaftesbury was at this time in union with his colleagues, a supporter of the French alliance and Dutch war, and taking his share of responsibility for measures, some of which he had more or less strongly opposed in the Cabinet. The defence which has often been made for Shaftesbury is indeed tantamount to Burnet's accusation, that he made a public fulsome eulogy of a general system and policy which in his heart he disapproved, and which he privately opposed. Such conduct could not be justified. He had originally hesitated about the French alliance; he had now, very likely, suspicions and fears of France;

[1] Own Time, ii. 4.

he feared the Roman Catholics, and already may have begun to suspect the King's inclinations: he had strongly protested against the Stop of the Exchequer, and done all in his power to prevent it; but he had not broken with the King or with his colleagues, or disavowed the general policy of the Government. Every member of the Cabinet now-a-days has frequently to consider how far he should press differences of opinion on particular questions, and frequently consents to support in Parliament measures which he has opposed in the Cabinet. Clarendon, who had been opposed to the first Dutch war, and had done all he could to prevent it, as strongly defended it in a similar Chancellor's speech in Parliament as Shaftesbury now defended the second. Stringer states that he remembers that Shaftesbury had prepared a speech, which was submitted to the Council and very much changed; and his memory may be trusted, for he copied both Shaftesbury's draft and the speech as ultimately settled. Le Clerc states, partly on Locke's authority, that the first draft of the speech was altered and made much stronger in Council in opposition to Shaftesbury's advice, that the words *Delenda est Carthago* were then inserted, that Shaftesbury expressed great uneasiness to Locke and another of his friends (who would, very likely, be Stringer), and that Shaftesbury was obliged to learn the speech by heart, and keep Locke behind him, while he delivered it, in order to prompt him if his memory failed.[1] This is probably an overdone explana-

[1] Bibliothèque Choisie, vi. 632.

tion. A statement of Bishop Burnet about the King's speeches, made on the Duke of York's authority, is probably true also as to those delivered by the Chancellor. Burnet says that Clarendon composed the King's speeches, but that after his fall they were settled in the Cabinet, "one minister putting in one period, while another made another, so that all was not of a piece."[1] This speech of Shaftesbury's was described in the Gazette as "a further explanation of his Majesty's mind in several other particulars by the Lord Chancellor."

It was customary for the Lord Chancellor, when speaking thus for the King and by his command, to speak from the seat on the right hand of the throne. It had been settled immediately after the Restoration that this should be accounted the Prince of Wales's seat, and that the King's brothers should sit on the left of the throne.[2] The Duke of York had latterly, there being no Prince of Wales and no prospect of one, put himself in the Prince of Wales's seat. It is probable that Shaftesbury on this occasion, when having to speak as Lord Chancellor, prevented the Duke of York from occupying this seat; and this is probably the origin of an extraordinary story, which otherwise must be without any foundation, as it must certainly in any case be materially without truth. This story, told by Mr. Martyn, is one example of the extraordinary falsehoods which have clustered round Shaftesbury's name,—and of the injury done to

[1] Own Time, ii. 32.

[2] Lords' Journals, May 30, 1660.

his reputation by ill-judging friends as well as by unscrupulous foes. The story is that Shaftesbury incensed the Duke of York by obliging him to leave the seat which he had usurped; and Mr. Martyn gives it as "an instance of the greatness of his spirit." A dialogue between the Chancellor and the Duke of York is thus related by Mr. Martyn. "The Duke being unwilling to quit his seat, Lord Shaftesbury told him that he could not proceed upon business till the House was in form. At length the Duke was obliged to submit, but said in a passion, 'My Lord, you are a rascal and a villain.' He, with great composure, immediately replied: 'I am much obliged to your Royal Highness for not calling me likewise a coward and a Papist." Mr. Martyn gravely proceeds, "Surely, if Lord Shaftesbury, instead of this reply, had complained to the House of the indignity offered to the Speaker in a discharge of his duty, the House must have resented it; but he had too much spirit."[1]

It is difficult to distinguish as to the degree of improbability between the language here attributed to the Duke of York and that attributed to Shaftesbury. There is evidence that they were at this moment on excellent terms. But a few days before, in addressing Serjeant Thurland, on his being sworn in as Baron of the Exchequer, Shaftesbury had referred to his having had the Duke of York's recommendation to the King: "His Majesty hath had large proof of your former service; besides, he takes you upon the credit of that recommen-

[1] Martyn's Life, ii. 30.

dation that hath justly the best place with him, I mean his royal brother's."[1] A few days before also, he had written to the Recorder of Chester to endeavour to persuade him to give way, in a coming election of a new member of the town, to a friend of the Duke of York.[2]

The King on this occasion, after the Lord Chancellor had spoken, did an unusual thing, and made a little addition to his first speech, referring to the short discussion of the day before in the House of Commons on the writs issued by the Chancellor, and encouraging full investigation of the matter. He said: "One thing I forgot to mention to you, which happened during this prorogation. I did give order that some writs might issue out for the election of members instead of those that are dead, to the end the House might be full at their meeting; and I am mistaken if this be not done according to former precedents. But I desire you that you fall not to any other business till you have examined that particular; and I doubt not but precedents will justify what is done. I am as careful of all your privileges as of my own prerogative."[3]

Dr. Lingard has made a mistake in representing this speech of the King as a command to the Commons of his own imagining, and inspired by bad feeling to Shaftesbury, to enter upon the question of the writs. He says: "The first object which occupied the attention

[1] See this speech of January 24, 1673, in Appendix V.

[2] See the letter in p. 127. In a stirring speech of Shaftesbury in 1680, when he was the leader of the Opposition, and in violent antagonism to the Duke of York, he mentions as one of the signs and steps of his ambition, that "he takes his seat in Parliament as Prince of Wales" (See the speech in Appendix VI.)

[3] Commons' Journals, Feb. 4, 5, 1673.

of the Commons was the legality of the writs issued during the prorogation; and in this they obeyed the command of the King, whether he already began to withdraw his confidence from Shaftesbury, or was desirous to propitiate the men who had displayed so much devotion to his person."[1] The fact is that the King's short speech on the subject was suggested by what had taken place the day before in the House of Commons, immediately after the election of Speaker; but the fact of that short discussion of the day before is not mentioned in the Parliamentary History or in Grey's Debates, and, appearing only in the Journals, has been overlooked. Bishop Burnet, whose account of the proceedings of Parliament at this time is extremely inaccurate, represents the Court as having a design to ruin Shaftesbury through the affair of the writs.[2] But there is every reason to believe that Shaftesbury was not, at the time of this meeting of Parliament, otherwise than well with his colleagues.

Colbert reported immediately that the King's and Chancellor's speeches were generally approved, and the war likewise.[3]

The Commons lost no time on the question of the writs. On the following day, February 6, they resolved "that all elections upon the writs issued by the Chancellor since the last session are void, and that Mr. Speaker do issue out warrants to the Clerk of the Crown to make out new writs for these places." A motion, supported by the Government, for a Committee "to inspect

[1] Hist. of England, vol. xii. p. 21. [2] Own Time, ii. 6.
[3] February 5, 1673 (Archives of French Foreign Office).

the precedents touching elections and returns," was rejected by 169 votes to 103, before this resolution was adopted.

Thirty-six writs in all had been issued by the Lord Chancellor before the meeting of Parliament, twenty-nine to fill vacancies caused by deaths, three in the room of newly-made judges, one in the room of Clifford, made a Peer, and three in the room of eldest sons of Peers who had inherited their fathers' peerages. There is no doubt that there had been many precedents before the Civil War of writs issued by the Lord Chancellor during prorogations, and that the House of Commons had after discussion approved of such issuing of writs.[1] On January 19, 1581, the House of Commons resolved that several members, chosen by writs issued by the Lord Chancellor during a prorogation, in the room of members deceased and of others who were not dead, but only sick of chronic diseases, as ague, or absent in the Queen's service abroad, should be admitted to sit. On the following eighteenth of March, the last day of the session, the House resolved that such members as had been chosen in the room of others still living should be henceforth discharged, unless in any case where special order be taken to the contrary; and on the same day it was resolved that no writ issue, during the sitting of Parliament, without the warrant of the House directed to the Clerk of the Crown. In the second and third years of James I., when Lord Ellesmere was Lord Chancellor,

[1] The precedents are described in Mr. Martyn's Life, vol. ii. p. 23; and a collection of them given at greater length exists among the Locke Papers at the Earl of Lovelace's; they had probably been collected by Stringer.

several writs were issued during prorogations; and on the fifth of November, 1605, a Committee of the House of Commons was appointed to inquire. But no further proceedings took place, and the Chancellor continued to issue writs during prorogations. On February 8, 1609, a report was made from the Committee of Privileges approving of the issuing of twenty-four new writs by the Chancellor in the room of members deceased. The last Parliament of Charles I. was prorogued from June 26 to October 20, and again to January 20; and during these prorogations six writs were issued by Lord Keeper Coventry in the room of deceased members. On January 21 a question was moved about the Lord Keeper's making out writs in time of prorogation, and was referred to the Committee of Privileges. The Committee reported on February 11 that there were many precedents, and that in King James's reign two writs had been issued during periods of adjournment, and "that the clerks even claimed in times of prorogation to make out writs of course without order from the Lord Keeper, and that they had done so sometimes in times of adjournment." The House acquiesced, but ordered one of the writs to be superseded on the ground of an informality. So far it is clear that, before the Restoration, what Shaftesbury had now done, and what was now objected to, was the customary proceeding. Since the Restoration it had become the practice of the House of Commons, instead of ordering the Speaker to issue his warrant to the Clerk of the Crown, to order that the Speaker should certify the vacancy to the Lord Chancellor or Lord Keeper, desiring of him that a writ should issue under the great

seal for the election of a member. This had occurred in the later sessions of this Parliament.[1]

The question then is by no means clear against Shaftesbury; and with such precedents it may be safely said that Bishop Burnet is altogether wrong in representing him as having wished, by issuing these writs during the prorogation, "to recommend himself to the confidence of the Court by a strain never before heard of." Mr. Thynne, the future Lord Weymouth, wrote to Sir William Coventry, before the meeting of Parliament, "My Lord Chancellor hath sent out the usual writs for the new elections, without expecting any advertisement from the Speaker, which, though it occasion much discourse and some grumbling, yet, I suppose, being according to law will pass muster, and I hope never be revived in the House of Commons."[2] Here is an instance of contemporary opinion that the proceeding was usual. The malice of contemporaries and carelessness of subsequent writers have engendered a large quantity of error on this subject. North and Bishop Parker accuse Shaftesbury of having resorted to this proceeding in order to carry a number of seats by surprise in the western countries where his own interest lay.[3] Of the thirty-six writs issued there were only two for Dorsetshire, one of them for Poole, and the other for Melcombe Regis. There was one for Andover in Hampshire, and there were five for boroughs in Wiltshire, with none

[1] Clifford said in the House of Commons, January 18, 1671: "The Speaker now certifies a vacancy to the Lord Keeper, and does not send a warrant, as is your ancient way." (Grey's Debates, i. 354.)

[2] January 28, 1673 (Longleat Papers, unpublished).

[3] Examen, p. 56; Parker's Own Time, p. 316; Lord Keeper Guilford's MS., quoted by Dalrymple, ii. 90.

of which Shaftesbury appears to have had any more connexion than with Andover. The two Dorsetshire boroughs are the only two of the thirty-six cases in which Shaftesbury could have had a personal interest. The origin of this invention is probably the fact that Colonel Strangways, a leading Dorsetshire Tory, took a lead in the opposition made in the House to the Chancellor's proceeding. Roger North is obliged to admit that almost all who were chosen on this occasion were "loyalists:" and he further admits, though not so fully as truth required, that there were precedents for the proceeding. "So this whole set of new elects, though mostly loyalists, filed out and came in no more upon that choice; for, although it was showed such writs had formerly issued during such prorogations, enough to have served the turn *in causa favorabili,* yet, the late practice being otherwise, and the current strong that way, and the Court party not able to hinder, all the elections on that foot were voted null, and new writs ordered to go."[1] Mr. Martyn, on no authority that I am aware of, and probably merely conjecturing an excuse for Shaftesbury, represents him as having been commanded to issue these writs by the King, who was bent on reviving every claim of prerogative, and that he was reduced to the alternative of resigning the seal or obeying the King's command.[2] It is more probable that Shaftesbury, of his own judgment and without expecting opposition, resorted to this proceeding in reliance on precedents.

[1] Examen, p. 56. One of the loyalists elected on this occasion was Francis, Roger North's brother, the future Lord Keeper Guilford, who appeared now for the first time in the House of Commons, as member for King's Lynn. (North's Lives, i. 172.)

[2] Life, ii. 27.

The resolution of the Commons on this occasion decided for the future that the issuing of writs to supply vacancies in the House rested primarily with the House itself and not with the Lord Chancellor. This was one of the questions between kingly power and popular right settled in this reign. There were two sides of argument on the general question of principle. The King's servants maintained that there should be a check from above on a House of Commons factiously or corruptly bent on not filling up vacancies, and that the Keeper of the great seal was the appropriate check. The Commons claimed protection against manœuvres of the King's Government. In those days there was probably as much reason in the Government pretension as in that of the Commons; for the utmost evil pointed out as likely to arise from independent action of the Lord Chancellor was connected with the sending of canvassing or mandatory letters to constituencies by Ministers. But such letters, as Stringer justly remarks in his defence of Shaftesbury's proceeding, could be as much sent, if the House took the initiative of the warrant; the worst in the other case would be some greater facility given to the Government in some cases perhaps for manipulation of elections. This was the object imputed on this occasion, but not apparently with justice, to Shaftesbury. The letters of Ministers to constituencies were neither the whole nor the worst of election abuses, or even of Government interference with elections to the House of Commons.

That Shaftesbury acted in this matter, in support of

the King's Government, and that he was also on friendly terms with the Duke of York at this time, are shown by a letter written by him to Mr. Williams, Recorder of Chester, to dissuade him from being a candidate in opposition to Colonel Worden, a friend of the Duke of York. A Peer did not then hold himself precluded from direct interference in elections; and the King's Ministers did not care to conceal their endeavours to influence elections to the House of Commons.

"*January* 16, 1672.[1]

"MR. WILLIAMS,—You being one that I have expressed a particular kindness to, I write to you as my private friend that you will give all assistance to Colonel Worden in his design to stand for burgess for the town of Chester. I am sure you will have an opportunity to do both yourself and the city more right than you can by being chosen in the place yourself, for you will oblige a man that the Duke is extremely kind to, and will take the obligation as done to himself; besides, I should say (if it was fit to be mentioned after the Duke's name) that you can never have an occasion to oblige me more than in this, and I am sure I would not write to you, if I did not think you do esteem me as

"Your very affectionate friend,

"SHAFTESBURY."

Mr. Williams did not yield to Shaftesbury's solicitation: he contested Chester with Colonel Worden, was beaten, and afterwards petitioned against Worden's return.[2]

[1] 1673, according to present mode of reckoning.
[2] Commons' Journals, February 19, 1673.

The Commons quickly promised a supply as large as the Government required for carrying on the war, amounting in all to 1,238,750*l.*, which was to be raised in eighteen months by assessment. They then proceeded to discuss the Declaration of Indulgence. It was resolved at the end of two long days' debate by 168 votes to 116 "that penal statutes in matters ecclesiastical cannot be suspended but by act of Parliament;" and they voted an address to the King founded on this resolution. It was decided by 125 votes to 110 that the Lords should not be asked to join in this address. The address was presented by the House of Commons to the King at Whitehall on February 19, and the King then replied "that it was of importance, and he would take it into his consideration." This cautious answer was not satisfactory; and within three days, on February 22, Sir John Hotham, member for Hull, moved for "a desire to his Majesty for a speedy answer to the last address of this House." A long debate ensued, which was ultimately adjourned to the twenty-fifth. The King anticipated the resumption of the debate by an answer sent by Henry Coventry, Secretary of State, on the twenty-fourth. In this answer he expressed surprise at the questioning of the royal power in ecclesiasticals, disclaimed pretence to a right of suspending any laws affecting the properties, rights, or liberties of subjects, and intention of making any change in the doctrine or discipline of the Church of England, declared that his only design was to relieve Dissenters from penalties, which he believed that the House of Commons would not wish to be rigorously enforced, and ended by saying

that "if any Bill shall be offered him, which shall appear more proper to attain the aforesaid ends, and secure the peace of the Church and kingdom, when tendered in due manner to him, he will show how readily he will concur in all ways that shall appear good for the kingdom." The Commons rejoined by another address, denying a power to suspend laws in matters ecclesiastical, and asking for a full and satisfactory answer to the former address; and for effectual measures to prevent the Declaration from being "drawn into consequence or example." To this address, presented by the House in body on the twenty-seventh, the King gave at the moment the same cautious answer which he had at first given to the first address, that "it was of consequence, and he would take it into his consideration." On the first of March, he appealed to the Lords for their advice, speaking in a querulous tone of the opposition of the Commons to his Declaration. The Commons had then been occupied for a fortnight with a Bill for ease of Protestant Dissenters; and, the day before, they had determined on preparing an address to the King for suppressing the growth of Popery, and they had given leave to bring in a Bill for incapacitating from all employments all who should refuse to take the oaths of allegiance and supremacy and the sacrament according to the rites of the Church of England. This was the beginning of the famous and eventful Test Act of this year.

The appeal to the Lords did not elicit the response which the King had hoped. The Lords first voted an address of thanks to the King for his communications to them, and to this address Charles con-

fidently replied: "I take this address of yours very kindly, and will always be very affectionate to you, and I expect that you shall stand by me, as I will always by you." This was on the first of March. On the fourth, the Lords, having consulted the Judges, resolved that "the King's answer to the House of Commons, in referring the points now controverted to a Parliamentary way by bill, is good and gracious, that being a proper and natural course for satisfaction thereon." This obviously meant that the Lords advised the King to submit himself to Parliament. The Commons, in the meantime pressing on, had asked the Lords' concurrence in their address against the increase of Popery. The Lords agreed to concur, and their joint address was presented to the King on the seventh of March. This address called attention to the dangers and mischiefs arising from the increase of Popish recusants in England, and the great resort of priests and Jesuits into the kingdom, and prayed for a proclamation commanding all priests and Jesuits, others than such as were natural-born subjects and obliged to be in attendance on the Queen, to leave the kingdom within thirty days; it prayed also that commissions be issued by the Lord Chancellor by the twenty-fifth of the month for tendering the oaths of allegiance and supremacy to all officers and soldiers in service, and that all who refuse be dismissed, and further that all officers and soldiers hereafter, before being mustered, do take the oaths of allegiance and supremacy, and do take the sacrament. The King instantly

promised compliance with these requests. A further address was in preparation from the Lords on the subject of the Declaration of Indulgence, but this Charles did not wait for. On the evening of the seventh he cancelled the Declaration of Indulgence. On the next day the King went to the House of Lords, and, in a short speech, repeated his promise to perform what had been asked in the joint address of the day before, and begged in return for progress with the supply which had been promised him for the war, and faithfully promised that his Declaration of Indulgence should not be drawn into "consequence or example." He added, that with the Bill of Supply which he expected, he would as willingly receive and pass any other Bill tending to give satisfaction in all just grievances. He abstained himself from telling, he left it to the Lord Chancellor to tell, the Lords that the Declaration for Indulgence had been cancelled. When the King had finished his speech, Shaftesbury, as Lord Chancellor, reported a formal written answer from the King to the address of the day before; and then, after giving by the King's command an explanation of a part of that answer, he proceeded to say: "There was another particular he thought fit to acquaint them with, which, though it was by his Majesty's leave, yet it was not by his command; however, he thought it his duty to acquaint the House with it (Mr. Secretary Coventry intending to acquaint the House of Commons with the same), that his Majesty had the last night in pursuance of what he then intended and declared this morning,

concerning the suspension of penal laws not being for the future drawn either into consequence or example, caused the original Declaration under the great seal to be cancelled in his presence, whereof himself and several other Lords of the Council were witnesses."[1]

The Declaration, to which, when he opened Parliament on the fourth of February, Charles had said that he was resolved to stick, and as to which he had said on the same occasion that he would take very ill any contradiction, was abandoned and cancelled on the seventh of March. The appeal to the Lords for support against the Commons had failed. Mr. Stringer asserts that the reference to the Lords was advised by Clifford, who had previously urged a prorogation of Parliament, and that Shaftesbury, being of opinion that the Declaration should be given up, acquiesced in the reference to the Lords, feeling sure that the Lords would side with the Commons. It is more probable that Shaftesbury recommended the reference to the Lords with the hope, by their support, of maintaining the Declaration. The following paper, which I have found at St. Giles's, is more probably Shaftesbury's advice to the King to refer the question to the Lords than Clifford's or any one else's advice:—

Reasons for referring the Declaration of Indulgence to the House of Peers, 1673.

"It ought to be presumed, that his Majesty would not have declared so solemnly to the world his resolution to

[1] Lords' Journals, March 8, 1673. There is no entry in the Commons' Journals of a communication by Coventry or any one else to the House of Commons, nor is there any mention of such a communication in Anchitel Grey's Reports.

adhere to his Declaration for Indulgence, had not his judgment been convinced that his royal prerogative justly and legally might dispense with such laws for the public safety.

"Now, since the House of Commons have by their vote declared their opinion of the illegality of such a dispensation, what can they in such a circumstance reasonably expect from his Majesty? Shall he who is in possession immediately deliver up his right before the matter in contest is brought to a fair trial in any Court of Judicature? And if his Majesty, in consideration of their vote, should graciously descend to have his title tried in the supremest Court of his realm, assisted by all the Judges of the land, is it not all they can with modesty hope from the most just and benign Prince in the world?

"We know this House of Commons is composed of persons of too much reason and equity to arrogate to themselves a power of declaring matters of law, and much less to prejudge their Sovereign. We ought therefore to suppose, that their humble and pressing desire that his Majesty should immediately revoke his Declaration, springs from some misrepresentation of his Majesty's present judgment and persuasion in this matter, as if, since his late solemn declaring his mind in this point, he had altered his opinion as to the legality of his first proceeding.

"But this mistake being removed, and his Majesty again declaring that no reasons have yet been offered that should make him recede from his first deliberation in this matter, who can doubt but that his dutiful House of Commons, with all submission and thankfulness, will accept of his Majesty's most indulgent condescension to

have this branch of his prerogative legally examined and tried in his House of Peers?

"This possibly may be a proper expedient at this time:

"1. Because it has so much justice and moderation in it, that it must needs produce a general satisfaction as to his Majesty's proceeding.

"2. It puts by the present thrust, and his Majesty keeps himself still in guard, and is not forced to lay himself open either by a downright denial or by a present retraction.

"3. It gives time to the supply to grow up and be perfected before the matter of prerogative can come to a legal and final decision.

"4. It brings his Majesty's cause into a Court which has been slighted by the other party."

I am confirmed in the opinion that the above was the advice given by Shaftesbury to the King, by a despatch of Colbert, the French Ambassador, of February 27, in which he says that Shaftesbury, Buckingham, and Lauderdale were for maintaining the Declaration and dissolving Parliament, and that Arlington alone was of the contrary opinion. Arlington was, without doubt, the first to quail before the excited and determined opposition of the Commons. On February 10, Colbert had written that Arlington expected that the Declaration would survive the attacks in Parliament. But he soon became alarmed, and he then probably helped to persuade Shaftesbury to act with him for getting rid of the Declaration. Shaftesbury finally gave way when he found no disposition in the Lords to stand by the King. Colbert writes in a despatch of April 17, some weeks

after the abandonment of the Declaration, that Shaftesbury had been one of the first to wish to be rid of it. But here he was after Arlington, and very little before Colbert himself, who had, before the cancelling of the Declaration, written to Louis, strongly representing the danger of persistence, and blaming the Duke of York for indiscreet zeal, and who had been instructed in reply to advise Charles to abandon the Declaration. It was given up on the seventh of March, and on the tenth Colbert wrote to M. de Pomponne: "We are now extricated from a very perilous measure, and the King of England will in a short while be able to make his enemies tremble. The promptitude with which his Majesty [Louis XIV.] has made his sentiments known to me has not a little contributed to this result, and I cannot refrain from saying in the words of Cicero to Brutus, 'Non ignoras quanta momenta sint in republica temporum et quid intersit idem illud, utrum ante post decernatur, suscipiatur, agatur.'"[1]

The parliamentary opposition had obtained one great victory when the Declaration of Indulgence was cancelled; they obtained another by passing into an Act a bill "for preventing dangers which may happen from Popish recusants, and quieting the minds of his Majesty's good subjects," which required all persons, whether peers or commoners, who held any civil or military office, or were in receipt of any emolument by the King's patent or grant, or held any command or place of trust under the King or in the name of the Duke of York, to take,

[1] Archives of French Foreign Office.

before the first of August, the oaths of supremacy and allegiance, and receive the sacrament according to the rites of the Church of England, and make the following declaration,—"I do believe that there is not any transubstantiation in the sacrament of the Lord's Supper, or in the elements of bread and wine, at or after the consecration thereof by any person whatsoever;" forfeiture of office with disability to hold any other public office being the penalty of refusal or neglect. This bill was warmly supported by Shaftesbury; and it was suspected that it was not disapproved, and perhaps quietly aided, by Arlington, who was now thoroughly frightened, and was believed to have told Shaftesbury of the King's secret engagements with France as to the Roman Catholic religion.[1] The bill was opposed by the Duke of York, Clifford, Buckingham, and Lauderdale; and Clifford's vehemence in opposition was beyond bounds.

It was in a debate on the Test Bill that Clifford made a violent speech, which all historians have followed

[1] Colbert wrote, November 20, 1673, that St. Evremont, who had good opportunities of information, had told him that Arlington was a secret promoter of the Test Act, and that he was himself inclined to believe this. Colbert adds: "I have even reason to give some faith to what St. Evremont tells me, that Arlington has co-operated with the Chancellor for the new oath, knowing well that Lord Clifford could not take it." (Mignet, iv. 236; Dalrymple, ii. 90.) One of Sir Joseph Williamson's correspondents mentions the same suspicion: "There are stiff cabals in order to impeachments against the next session of Parliament, when some that you have formerly loved (as I believe) intend to begin with my Lord Arlington, who hath, I think, the advantage of sticking close to the Act which hath caused much of this; and his adversary, who labours his ends with great vehemency among the members, though he should have his ends, must be branded with the odious title of ungrateful to a person to whom he owes his being what he is." (T. Rosse to Sir J. Williamson, June 21, 1673; Domestic Papers, State Paper Office.)

Bishop Burnet in representing as being made in a previous debate on the Declaration of Indulgence; and connected with this mistake is a sensational invention of a reply from Shaftesbury to Clifford, and of Shaftesbury's then and there turning suddenly round against the Declaration, which is also due to Burnet.[1]

The story is that, Clifford having made a violent speech for maintaining the Declaration of Indulgence, in which he called the vote of the House of Commons against it *monstrum horrendum ingens*, Shaftesbury amazed the House by replying to him, and urging that the Declaration should be abandoned. The King is said by Burnet to have been furious with Shaftesbury, and loud in admiration of Clifford's speech. Burnet goes on to say that Arlington and Shaftesbury afterwards induced members to go to the King to persuade him that Shaftesbury had done good service, for that Clifford's speech had caused a most dangerous exasperation, and that Charles yielded to this advice and consented to give up the Declaration. Now the Declaration was given up on the eighth of March: and it is clear from a despatch of Colbert of March 22, that Clifford's violent speech was made in a debate on the Test Bill, and that the phrase *monstrum horrendum ingens* was applied by him to this bill. On March 22, Colbert reports that the House of Commons had the day before refused to agree to the Lords' amendments in that bill; and he states that it was the general opinion, shared by the King and Arlington, that a compromise might have been agreed to for

[1] Own Time, ii. 6.

excepting the Queen's household, "if the Lord Treasurer, urged by a precipitate zeal, had not made a speech or rather a sermon (*prédication*), in the House of Lords, on the encroachments of the Lower House, and the dangerous consequences to be feared not only for the authority of the Peers, but also for the Anglican religion, from blindly subscribing and assenting to laws which the Commons undertake to make in matters purely ecclesiastical, even to the extent of determining what is to be believed of the communion and deciding on the principal articles of faith; and he even characterized the bill as *monstrum horrendum;* these were his words. It is true that as soon as this speech, which however was approved by a large part of the Upper House, and especially by the Duke of York and even the Bishops, came to the knowledge of the Commons, it kindled such a flame that nothing since has been heard but fury and reproach against the Government. Lord Cavendish has even proposed that since the King permitted them to present their grievances, they should begin with evil counsellors. This proposal has been supported by Lord St. John and several others, so that if night had not compelled the close of the sitting, it is the general opinion that they would have deliberated on an address for the removal of the Lord Treasurer, and also of the Duke of Lauderdale, who is extremely hated."[1] These speeches of Lords Cavendish and St. John were on March 21.[2] On March 24, Colbert again alludes to Clifford's unfortunate speech, and says that Arlington

[1] Archives of French Foreign Office.
[2] Parl. Hist. iv. 576.

thinks that the "great design" must be abandoned, and Charles think only of establishing his credit with his subjects by a good peace, for "the storm which has been roused in Parliament and has recovered its force in the last two days through the Treasurer's speech makes him believe shipwreck inevitable" if the "great design" is not given up. And in the same despatch of March 24, he writes to Clifford: "What gives me cause of alarm is the mad zeal of the Lord Treasurer which Lord Arlington treats as extravagance; and in fact while the King of England consents to all that Parliament desires about religion and even makes a severe proclamation against Catholics, nothing is more surprising than to have his Lord Treasurer, who has the greatest part in all his secrets, take the part of the Catholics with inimitable eloquence and courage. Clifford has even assured the Duke of York (as this Prince has informed me) that he did not think of speaking when he went to the House, but that he could not resist the inspiration of God, and his head is so turned with the glory of martyrdom that he has reproached Father Patrick for his lukewarmness about religion, and told him that God wished to make use of ten or twelve firm persons to open the eyes of the whole nation, and that he would willingly lose his life for so good a cause."[1] It is very clear from these extracts from Colbert's despatches, that Lord Clifford's speech, described by Burnet as containing the words *monstrum horrendum ingens*, was not the occasion of a sudden tergiversation

[1] Archives of French Foreign Office.

of Shaftesbury on the subject of the Declaration of Indulgence.[1]

It may be assumed that, during this short session, and by information confidentially given by Arlington, Shaftesbury became aware of Charles's secret engagements with France, and of his having himself been made a dupe. This explanation renders a sudden change of political action, which would otherwise appear and which has been represented as a sudden interested tergiversation, intelligible and easy to justify.

The withdrawal of the Declaration of Indulgence and the passing of the Test Act put the Commons in good humour, and the supply of 1,238,750*l.* promised at the beginning of the session was given without difficulty. No provision was made for payment of the bankers. The bill for ease of Protestant Dissenters, which was to console them for their loss in the withdrawal of the Declaration of Indulgence, miscarried in consequence of amendments made in the Lords,

[1] The last editor of Bishop Burnet's History has pointed out another mistake in his story: the Bishop says that about thirty of the Peers protested against the resolution respecting the Declaration of Indulgence; but the Journals contain no protest, and show that there was no division. A singular story is told by the historian Echard of Shaftesbury's breaking with Clifford about "a project for establishing a perpetual fund to free the King from his dependence on the Parliament," and astonishing Clifford and the King by opposing the project in the House of Lords, after he had promised Clifford his support. According to this story, as soon as Clifford had explained his project in the House of Lords, Shaftesbury rose and answered him, and while he was speaking, the Duke of York whispered to the King, "What a rogue you have for a Chancellor!" and the King replied, "What a fool have you for a Lord Treasurer!" The whole story is probably an invention; there is no other trace of such a financial project, and it is difficult to conceive what it could be: the story is probably another version of the invention already exposed about Shaftesbury's sudden opposition to Clifford and the King in the House of Lords about the Declaration of Indulgence.

which the Commons had not sufficient time to consider before Parliament was adjourned; and it may be presumed that the Commons were not very eager for further time in order to pass this bill. The Commons were now in the main satisfied, and the King and his advisers were delighted with the supply, and anxious, when they had obtained it, to adjourn Parliament. Addresses from the Commons were presented to the King on grievances in England and Ireland, and so satisfied were the Commons in the end that they resolved, on March 26, to thank the King "for the often accesses they have been admitted to his Majesty's person, and for his most gracious answers to the several addresses of this House."[1] On the twenty-ninth of March Parliament was adjourned to the twentieth of October.

Before the time expired for taking the new test prescribed, the Duke of York resigned his high offices of Lord High Admiral and Commander-in-Chief, and Clifford ceased to be Lord Treasurer; both left the Privy Council. The Duke's resignation now for the first time rendered certain what had for long been a matter of strong suspicion, that he had become a Roman Catholic. His wife, Lord Clarendon's daughter, had died two years before, avowing herself in her last

[1] Dr. Lingard has fairly enough observed that in this session "not a murmur was heard from the ranks of the opposition against the war, or the alliance with France, or the suspension of payments in the Exchequer," and that the Roman Catholic religion and Roman Catholics were the sole subjects of contention." (Hist. of England, xii. 30.) Mr. Hallam also has noticed the abstinence from opposition to the Dutch war, explaining it, I think, not quite correctly, when he attributes it to moderation. (Const. Hist. ii. 533.)

illness a Roman Catholic. But the Duke continued to conform to Church of England observances. There had been general surprise and concern on the previous Easter Sunday, March 30, at the Duke's not taking the sacrament with the King, and he had also omitted doing so in the previous year.[1] The Duke had really been long a Roman Catholic: Clifford was a new convert, and zealous with a new convert's proverbial zeal.[2] There were rumours that the Duke of York, after resigning, was to be made Commander-in-Chief of all the forces by land and sea, and that Clifford was to have a command as Major-General in the army to be raised. It is stated by a well-informed correspondent of Sir Joseph Williamson, that Shaftesbury took the opinion of the judges as to whether the Duke of York could legally be appointed Commander-in-Chief; and it was decided that this could not be.[3] The project thereupon fell to the ground. The letters written at this time from London to Sir Joseph Williamson at Cologne are extremely interesting in their accounts of the excitement which preceded and followed the Duke of York's and Clifford's resignations. One correspondent writes that for many days up to the eve of the day of Clifford's resignation, there were "throngs of people of all qualities attending at all hours" at Whitehall; and the writer adds that "the next day all was silent as a convent."[4]

[1] Evelyn's Diary, March 30, 1673.
[2] Life of James II., i. 484. Evelyn's Diary, July 25, 1673.
[3] Sir R. Southwell and Mr. H. Ball to Williamson, June 20; R. Yard to ditto, June 20 and 23.
[4] Sir R. Southwell to Williamson, June 20, 1673.

"Great is the talk of the town," writes another, "upon these sudden alterations, especially of his Royal Highness's laying down, the generality of people being so bold as to say he must not think to have the favour of England, if he professes himself openly a Roman Catholic, nay further, that his Majesty must not make him Commander of the forces, which is of great moment, with much other rude and barbarous talk."[1] "I dare not write the strange talk of the town," it is written a few days later, "upon his Royal Highness's surrender: your Excellency will better imagine it, it being as bad against him as ever it was in his father's days in the height of his troubles."[2] Clifford retired into seclusion to his estate of Chudleigh in Devonshire, and died in October. His friend Evelyn thought that his fatal illness was one more of the mind than of the body. There was a report even that he died by his own hand. Shaftesbury, after Clifford's death, related to Evelyn and others a curious conversation. "Being one day discoursing with him when he was only Sir Thomas Clifford, speaking of men's advancement to great charges in the nation, 'Well,' says he, 'my Lord, I shall be one of the greatest men in England. Don't impute what I say to either fancy or vanity, I am certain that I shall be a mighty man; but it will not last long; I shall not hold it, but shall die a bloody death.' 'What,' says my Lord, 'your horoscope tells you so?' 'No matter for that, it will be as I tell you.' 'Well,' says my Lord Chancellor Shaftesbury, 'if I were

[1] Mr. H. Ball to Williamson, June 20, 1675. [2] Ibid. June 26.

of that opinion, I either would not be a great man, but decline preferment, or prevent my danger.'" Sir Edward Walker, Garter King at Arms, is said by Evelyn to have confirmed this story.[1]

The office of Lord High Admiral was put into Commission; Clifford was succeeded as Lord Treasurer by Sir Thomas Osborne, who was now raised to the peerage with the title of Viscount Latimer, and in June of next year received the title of Earl of Danby. Osborne was selected for the Lord Treasurership by the influence of Clifford, Buckingham, Lauderdale, and the Duke of York.[2] Arlington was displeased at being a second time passed over, and he and Osborne became enemies.[3] The Duke of Ormond was at this time recalled to the meetings of the Cabinet, which strengthened the party opposed to France and the Roman Catholics; and Arlington, Ormond, and Shaftesbury now acted together.

But seven months had passed since Shaftesbury, as

[1] Evelyn's Diary, July 25, August 18, 1673.

[2] Burnet's Own Time, ii. 11; Life of James, i. 484; Reresby's Memoirs, p. 175; Colbert, June 1, 1673, in Archives of French Foreign Office. Colbert writes: "Milord Arlington, qui avait droit d'y prétendre, s'en voit à présent entièrement exclus, et m'a même avoue qu'il n'avait pas pû faire gouter au Roi les fortes raisons qui devraient obliger ce Prince à faire exercer cette charge par des Commissaires."

[3] Evelyn's Diary, June 23, 1673, ii. 90.

[4] Some references to Ormond's return to the Cabinet in the letters of Williamson's correspondents show much hearty satisfaction at this incident. "The Duke of Ormond is now of the Cabinet, and that side seems now uppermost, though the other carried it for the present Lord Treasurer." (T. Rosse, June 21.) "The people are extremely pleased to see the Duke of Ormond called into the Cabinet Council again, for, to speak their words, he is a good Protestant and Englishman." (R. Yard, June 23.) "We are no more all of a piece here than when your Excellency left us, nor can it be easy to judge which side is uppermost, yet we are not altogether in despair that the old honest party will weather the storm, my Lord of Ormond being now in the Cabinet." (T. Rosse, June 27.)

Lord Chancellor, had sworn in Clifford as Lord Treasurer, and addressed to him an official panegyric; and now, on June 26, he performed the same office for Osborne. His speech on this occasion to Osborne, which reads as if it were complimentary, appears to have given some umbrage to the new Lord Treasurer, who was perhaps ready to suspect insincerity and discern a double meaning.[1] Shaftesbury was proud of his official speeches, and always published them immediately.[2]

While Parliament was not sitting from the end of March to October, alarm as to the Roman Catholic religion greatly grew and strengthened, and with it also grew and strengthened aversion to the war against Holland and to the French alliance. Shortly

[1] See the speech in Appendix V. Sir W. Coventry writes to Thynne, July 7, 1673: "I do not well see what there is for this Lord Treasurer to take ill, unless mentioning his conjunction with Sir Thomas Littleton, and then being alone, which hath no great matter of exception; but there is somewhat for the last to take amiss." (Longleat Papers.) Mr. Martyn states, I know not on what authority, that the new Lord Treasurer thanked Shaftesbury in public for this speech, but that "the next day, when he had considered the turn of the speech, he sent to revoke his thanks, and from this time conceived a strong resentment against him." (Life, ii. 64.) Mr. T. Rosse, reporting to Williamson the swearing in of Osborne, gives the following account of Shaftesbury's speech: "His Lordship was entertained with a short but very quaint speech by the Lord Chancellor, who in one part told him that some men were by strength of friends and their own industry and parts raised suddenly to highest dignities, and as suddenly by their own folly and opiniastrety were laid aside; but his Lordship being bred in the House of Commons, that nursery of statesmen, he doubted not but his great prudence would tell him, *non minor est quam quærere*, &c.; and in pithy sayings to this purpose he welcomed him to the Exchequer."

[2] Sir William Coventry writes on occasion of the publication of the speech to Osborne, "I am more to seek why the Lord Chancellor suffers his speeches to be printed; the reputation of his parts and capacity is too high to receive increase from that practice, possibly it may diminution; and in other respects it is liable enough to inconvenience." (To Mr. Thynne, July 7, 1673. Longleat Papers.)

after the dispersion of the Parliament an army was mustered at Blackheath, destined under the provisions of the treaty with France for co-operation with the French army against Holland. That treaty had not been published. The numbers of the Blackheath army even considerably exceeded the requirement of the treaty, which had bound the King of England to furnish six thousand men. There were to assemble at Blackheath ten thousand men raised in England, and Lauderdale had undertaken for eight thousand more from Scotland. There was great alarm that this army was designed for coercing England into submission to the Roman Catholic religion, and that its foreign destination was a pretext. The appointment of a foreigner, Schomberg, sent from France, to be commander-in-chief of this army, and of an Irish Roman Catholic, Fitzgerald, to be major-general, aggravated distrust and anxiety.[1] The Duke of Buckingham, who had aspired to the chief command, was lieutenant-general, and Buckingham was now suspected of having become a Roman Catholic. He ultimately threw up his appointment from dissatisfaction with Schomberg, who indeed offended many of the English officers, and quarrelled also with Prince Rupert, the Commander-in-chief of the fleet. If fears as to the object

[1] Mr. Ball writes to Williamson, June 26, that the soldiers "are not at all satisfied at the notion of M. Schomberg to command them, pretending that he is a Frenchman and that we have borrowed him of the King of France, when he knows not what to do with him." Dr. Lingard has made a mistake in representing the Blackheath army and Schomberg as subjects of complaint in the session of February and March 1673. The army was not begun to be raised till after the end of that session, and Schomberg did not come to England to take the command till June.

of this army were laid by its embarkation at Gravesend in July for Holland, they were quickly revived by its return in August from the Dutch coast to Yarmouth, and by its then remaining encamped there. Fear of the Roman Catholics became more intense when there came to be known a project of marriage of the Duke of York, presumptive heir of the throne, with a Roman Catholic Princess, Mary, daughter of the Grand Duke of Modena. It is singular enough that in the beginning of this year there had been some idea that the Queen of England might die, and a thought of this beautiful Princess of Modena, who now married James, had entered the mind of Charles for a second wife for himself. This fact, unnoticed by any historian, rests on the authority of a despatch of Colbert of February 20, 1673.[1] He says in this despatch that he had learnt from Arlington that the King's chief physician had pronounced the Queen to be in a consumption, of which she must die in a few months, or at any rate within the year; and that Arlington had further said that the King would not let a month pass after the Queen's death without making another marriage, and had proposed to him that they should look about in time and see whether among the dependents or allies of France there was any handsome Princess; he had particularly inquired about Mary of Modena, whether she was handsome, and had ended by saying that Charles would not be satisfied with portraits, and that it would be useless to propose any one who was not very handsome. The Queen did

[1] Archives of French Foreign Office.

not die, and under the auspices of France a marriage was arranged for the Princess with the Duke of York, who had been a widower since the spring of 1671.[1]

A Congress had been opened at Cologne in June, under the auspices of Sweden as mediator; the Earl of Sunderland, Sir Leoline Jenkins, and Sir Joseph Williamson, Under Secretary of State, were the British Plenipotentiaries. On the thirtieth of August, a treaty of defensive and offensive alliance had been concluded between the States-General and the Emperor, Queen Regent of Spain, and the Duke of Lorraine; and the Dutch were now full of hope. It was now their aim

[1] Not long after Colbert reported the alarm as to the health of the Queen, and schemes already formed by the King for a second marriage, he reported, on April 17, 1673, to the King of France, that there was a project of dissolving Charles's marriage, in order to enable him to marry again, and he was to marry a Protestant, that he might thus defeat the Duke of York's, and secure a Protestant, succession. After mentioning that this had been suggested to the King by some members of the House of Commons, and that the King had neither expressed his approval or disapproval, he goes on to say that "the Chancellor [Shaftesbury] has joined those who are for breaking the King's marriage, and the Duke of York told me two days ago that this Minister and his party had the design of making the King their master marry a Protestant princess, and of detaching him at any cost from the French alliance." Colbert adds, that he thinks Charles would not be sorry to find a reason for dissolving his marriage. (Archives of French Foreign Office.) It is also stated that there was a project at this time for declaring Monmouth legitimate, and that Shaftesbury and Carlisle urged it on the King, saying that if he would only declare Mrs. Barlow was his wife, they would find men to swear it. (Macpherson's State Papers, i. 70, 72.) But implicit belief cannot be placed in this statement, which comes from the Duke of York himself. Mr. Martyn relates at some length a project of Shaftesbury's, in concert with a Saxon gentleman, of marrying the Duke of York to an Archduchess of Inspruck, and getting him made a Prince of the Empire, with a view to his being elected King of the Romans. (Life, ii. 6.) But Martyn, or Stringer, who is probably his authority, has doubtless given an exaggerated importance to this scheme, which, except as regards the idea of a marriage with the Archduchess, probably existed only in the head of Shaftesbury's Saxon acquaintance. The Archduchess was the first person thought of for the Duke of York; but the Empress dying, the Emperor Leopold married her.

to detach England from France, and they expected that the English Parliament, when it met, would help them against Charles. The King of France, on the other hand, dreaded the re-assembling of the English Parliament, and, if he could have had his way, it would not have met in October.

Shaftesbury was now known to be the head of a section of the King's Ministers opposed to the Roman Catholics and to a continuance of the French alliance and the Dutch war, and was regarded by the public as a chief protector of the Protestantism and the liberties of England. Those who most strenuously co-operated with him in the Cabinet were Prince Rupert and the Duke of Ormond. Arlington also was with him, if not from conviction, from fear. Henry Coventry, the other Secretary of State, was with him from conviction, but he was inferior in influence to the others. Osborne, who had been made Lord Treasurer by the influence of the Roman Catholic and French party in the Cabinet, and was not in cordial connection with Shaftesbury and his friends, was yet not favourable to the French alliance or to the war, and he by no means satisfied Colbert, the French Ambassador.[1] A statement

[1] Sir William Coventry wrote to Mr. Thynne, very soon after Osborne's elevation, July 7, 1673: "I believe this Lord Treasurer will play his cards more dexterously than the last, and if he can keep himself in the dark till the session of Parliament be over, will be too hard for them all, as experienced and crafty as they are. But I believe the rest of his companions will make him show himself before that time, and, if he must show himself, I am apt to believe it will be inclining to be plausible." In the same letter Coventry anticipates trouble for Shaftesbury when Parliament should reassemble: the question of martial law did not arise, but the Court threw him over and the people applauded him. "I believe the Lord Chancellor will now have a great plunge upon the point of martial law, which the late mutiny will

is made by one of Sir Joseph Williamson's correspondents, as to which I have obtained no other information, that a letter from Shaftesbury to the Duke of York, urging him to renounce the Roman Catholic religion, was circulated in June and was much approved:[1] and such a statement must be correct. Another of Sir Joseph's friends, Mr. Henry Ball, writes on September 19: "My Lord Chancellor has been these two days somewhat indisposed with the gout, but hopes to come to the Cabinet to-morrow. Prince Rupert and he are observed to converse very much together and are very good friends, and indeed I see his Highness's coach often at his door. They are looked upon to be the great Parliament-men, and for the interest of old England."

Shaftesbury's zeal against Roman Catholic designs suggested to him at this time danger for his life, and led him to take precautions against assassination. Mr. Stringer says: "The Papists were grown to so great height that our Earl, who was then Chancellor, expected every moment when they would openly have declared, and he, knowing himself in greatest danger from the interruptions he had given them, caused his family to be well armed, and kept constant watch in his house all the summer,

argue necessary. His old supporters at Court, I apprehend, have left, or will leave, him upon this point; and on the other side, if he pass it, adieu to the popularity he hath seemed to pretend to of late; and when it is passed, it will make some difficulties even in the army, for, if ever Parliament sit again, whoever shall have sat at condemning any man for life or limb will, I believe, be questioned, this point and matter of money being the only guard the people have against an army they so much dread; for who can say the King may not raise men when and as many as he pleaseth, but to pay them and furnish them by extraordinary ways requires a Parliament." (Longleat Papers.)

[1] Mr. H. Ball, June 26, 1673, in Domestic Papers in State Paper Office.

resolving to sell his life at the dearest rate." Stringer, though a partisan and a bad writer, was a truthful and honourable man; he had personal knowledge of Shaftesbury's doings at this time; and this statement cannot be without foundation. Shaftesbury at this time of his Chancellorship was incapable of deliberately inventing such danger, and arming himself and his household from no better cause than wild delusion or morbid vanity. A friendly biographer, who published an account of Shaftesbury during his lifetime, in 1681, has also stated that while he was Lord Chancellor he, "on unquestionable evidence, found himself in personal danger from the Popish party," and that "he expected every night that cut-throats would come to cut his throat, and upon this account was he constrained to have a constant guard to keep watch in his house, which is every man's castle, much more a nobleman's, to prevent his assassination."[1]

The Parliament re-assembled on the day to which on the twenty-ninth of March it had been adjourned, the twentieth of October. It was then thought expedient to prorogue it for a few days, for reasons founded on constitutional differences between an adjournment and a prorogation. A prorogation made a new session; after a mere adjournment, it would have been the last session continued. Before the adjournment in March there was an unadjusted differ-

[1] "Some Memoirs, or a Sober Essay for a just Vindication of the Right Honourable the Earl of Shaftesbury, containing the most material remarks and the principal passages of his public life, most memorably transacted hitherto. Published for the satisfaction of all the seriously inquisitive. London, printed for Samuel Lee, 1681."

ence between the two Houses on Lords' amendments to the bill for relief of Protestant Dissenters; and a new session would put an end to the bill. A fresh supply also was desired, and objection might be made to two supplies in the same session. It was desired to re-introduce a bill for paving the streets of London, which had been defeated; and this could only be done in a new session. These were the reasons which determined the Government, when Parliament re-assembled on the ninth of October, to prorogue it for a week.[1]

When Parliament met on the twentieth, the Duke of York's marriage with the Princess Mary of Modena was imminent, and popular excitement on the subject was at its height. The marriage had been already celebrated abroad by proxy, the Earl of Peterborough representing the Duke of York, and the Princess was now in France on her way to England. It was expected that a motion would be made in the House of Commons at its meeting, without one moment's loss of time, for an address to the King to prevent the completion of the marriage. The Duke desired to avert this address, and was most anxious that there should be no delay, on the twentieth, in proroguing the two Houses, and that the Commons should be summoned to the Lords immediately after their

[1] The reasons for this short prorogation, which Dr. Lingard erroneously calls an adjournment, are thus explained by Sir Gilbert Talbot in a letter to Sir Joseph Williamson, November 13, 1673: "It was for three reasons, to cut off the dispute betwixt the two Houses, to revive the bill of paving the streets of London, and that custom might not be pleaded against giving money twice the same session." (Domestic Papers, State Paper Office.)

assembling, and before they could have time to agree to an address. He hoped that then his bride might reach England, and the marriage be consummated, before the re-assembling of Parliament after the short prorogation. It is stated that Shaftesbury purposely retarded the summons to the Lower House in order to baulk the Duke of York, and enable the Commons to make an address against his marriage.[1] Burnet says, "Some peers were to be brought in: the Duke pressed Lord Shaftesbury to put that off, and to prorogue the Parliament. He said coldly to him, there was no haste; but the Commons made more haste, for they quickly came to a vote for stopping the marriage." It is true that Osborne, created Viscount Latimer, and some other new peers, were introduced on this day into the House of Lords. While this ceremony was proceeding, the Commons quickly voted an address, "that it is the humble desire of this House that the intended marriage of His Royal Highness with the Duchess of Modena be not consummated, and that he may not be married to any person but of the Protestant religion." The Parliament was afterwards prorogued for a week, to the twenty-seventh of October. The Princess was delayed at Paris by illness, and when the short term of prorogation had expired, the marriage had not taken place. The House of Commons then made a second address against the marriage, but all their opposition was insufficient to prevent it.

On the meeting of Parliament after the short pro-

[1] Burnet's Own Time, ii. 31; Life of James, i. 485.

rogation, Shaftesbury, as Lord Chancellor, again followed the King's short opening speech with an official commentary and amplification. The burden of the two speeches was that there had been hope that peace might be announced to Parliament on its re-assembling, but that the unreasonableness and arrogance of the Dutch had disappointed this hope and baffled all the endeavours of the Cologne Congress, that a further supply was needed, that the King was resolute and zealous to preserve the laws and religion of the land, and that the King earnestly desired satisfaction of the debt to the bankers. Shaftesbury ended this official speech with a characteristic rhetorical peroration: "I have no more in command; and therefore shall conclude with my own hearty prayers that this session may equal, nay exceed, the honour of the last; that it may perfect what the last began for the safety of the King and kingdom; that it may be ever famous for having established upon a durable foundation our religion, laws, and properties; that we may not be tossed with boisterous winds, nor overtaken by a sudden dead calm; but that a fair gale may carry you, in a steady, even, and resolved way, into the ports of wisdom and security." Charles soon judged the House of Commons impracticable, and he prorogued it in less than a week. It was suddenly prorogued on the third of November to the seventh of January next; and this prorogation was almost immediately followed by Shaftesbury's dismissal from the Chancellorship. The House of Commons refused a supply, made a second address against the Duke of York's marriage, voted the new-

raised army a grievance, and was about to attack some of the Ministers, especially Lauderdale, when the prorogation stopped their proceedings.[1] The Parliament was prorogued on the third of November, and the great seal was taken from Shaftesbury on Sunday, the ninth. His brother-in-law, Henry Coventry, was the unwilling bearer of the following order to Shaftesbury to deliver up the great seal:

"CHARLES R.:

"Our will and pleasure is that you forthwith deliver our great seal to our right trusty and well-beloved Councillor Henry Coventry, our principal Secretary of State, and for so doing this shall be your warrant. Given at our Court at Whitehall the ninth day of November, 1673, in the five-and-twentieth year of our reign.

"By His Majesty's command,

"ARLINGTON.

"To our right trusty and right well-beloved Cousin and Councillor, Anthony, Earl of Shaftesbury, our High Chancellor of England."

It is said by Stringer that Coventry, as he took the seal, addressed Shaftesbury in these words: "My

[1] Sir Gilbert Talbot wrote to Sir J. Williamson on November 13:— "The black rod could not be so nimble but that they questioned the Duke of Lauderdale for an evil Councillor before he could knock, and were proceeding to some others." R. Yard writes, November 24, "People cannot forbear making reflexions, but the soberer sort wish that much more happiness may attend this marriage than the present disposition of the nation will let us hope for. . . . Here is some days since come abroad a pamphlet containing the votes and addresses of the House of Commons during their two last sessions, and is publicly sold up and down town: the author whereof concludes his discourse thus: that morning the Parliament was prorogued, it was proposed in the House that the alliance with France was a grievance, that the King's evil Council was a grievance, and that the Duke of Lauderdale was a grievance; but that the black rod knocking at the door, the House broke up, and had not time to come to any resolve."

'Lord, you are happy; you are out of danger, and all safe; but we shall all be ruined and undone; I desired to be excused from this office, but, being your relation and friend, they put it as an affront on me."[1] In Mr. Martyn's account, which contains several details not mentioned in the fragment of Stringer's Memoir printed in the Appendix, but which may be derived from a fuller narrative by Stringer, it is added that Shaftesbury replied with alacrity, "It is only laying down my gown and putting on my sword." In doffing the Chancellor's robe, with which a sword was not worn, he resumed his nobleman's dress, of which a civilian's sword was a part. The story is very likely manufactured, and the more so as Mr. Martyn proceeds to say that Shaftesbury then sent for his sword and put it on. Coventry was not likely to have found him on Sunday at home in his Chancellor's gown. This addition spoils the story of Shaftesbury's reply: but otherwise the witty insinuation that he was exchanging peace for war was in keeping with Shaftesbury's jocular turn and talent.

Stringer and Martyn give details, which may or may not be entirely correct, of incidents immediately preceding the dismissal of Shaftesbury, all tending to show that the French and Roman Catholic party in the Cabinet, of which the Duke of York was the pivot, and with which Colbert was in close connection, caused Shaftesbury's dismissal, and persistently pressed it on the King.[2] The substantial truth of the story told by

[1] See Fragment of Stringer's Memoir, Appendix III. p. xvii.
[2] Stringer in Appendix III. Martyn's Life, ii. 72–77.

these writers is best proved, by the despatch in which Colbert reported the dismissal to the French Government. Colbert had written a long despatch on the tenth, and on the eleventh he added to it the following in a postscript:[1]—

"As I was yesterday on the point of despatching this courier, I was informed that the King would infallibly in the course of the day take away the seals from the Chancellor, and I had the confirmation of this news in the evening at Whitehall, when Prince Rupert, the Duke of Ormond, and all their cabal showed plainly by their sad faces their annoyance at the disgrace of their friend. On the other hand, the Queen, the Duke of York, who has the chief part in this business, and all who are well-intentioned towards the Royal family and are opposed to the other party, showed in their faces the joy which they felt, and congratulated me on the disgrace of the greatest enemy of France, and I may add without passion, of the most knavish, unjust, and dishonest man in England (du plus fourbe, du plus injuste et du plus malhonnête d'Angleterre): but a discarded Minister who is very ill-conditioned and clever, left perfectly free to act and speak, seems to me much to be feared in this country."

Colbert goes on to say that though Sir Heneage Finch, who was to succeed Shaftesbury, was a friend of Arlington, the latter was not pleased with the change.[2]

The great seal having been taken from Shaftesbury, he received, according to the custom of the time, a protecting pardon from the King. It is an error to suppose

[1] The dismissal was clearly on Sunday the 9th, and Colbert did not hear of the accomplished fact till the next day.

[2] Sir Thomas Player wrote to Williamson, November 10, that the office of Lord Keeper was offered to Hale before it was given to Finch.

that the grant and acceptance of this pardon indicated guilt or unusual fear. The King in those days claimed and exercised the power of protecting his Ministers against impeachment by a general pardon. When Clarendon had been dismissed, the Parliament passed an act which specially prevented a royal pardon.[1] Shaftesbury had received a pardon from the King in 1668 to protect him from attack as Treasurer of prizes. A few years later the King's pardoning power in bar of an impeachment was resisted by Parliament in the celebrated case of Lord Danby. Lord Campbell, as usual, misrepresents the grant of the pardon to Shaftesbury, and introduces a special misrepresentation, which is contradicted by his own authority. In the Life of Lord Chancellor Nottingham, who, being at the time Sir Heneage Finch, Attorney-General, succeeded Shaftesbury with the lower dignity of Lord Keeper, Lord Campbell says: "His [Finch's] first act was to seal a pardon for his predecessor, which had been stipulated for when Shaftesbury took the office, foreseeing that he might probably do many things for which a pardon might be required, and wishing to have the pleasure of sinning with an indulgence in his pocket." There is no authority for this statement of a stipulation for a pardon when Shaftesbury first became Lord Chancellor. What does Finch, whom Lord Campbell quotes, say on this matter? Finch noted in a diary, under date November 10, 1673, the following, which is quoted at length by Lord Campbell: "I recipi'd my Lord Shaftesbury's patent, which came to me from the Privy Seal. It

[1] See vol. i. p. 313.

was reported his Lordship kept the bill signed by him above a year and a half, for it was signed before he was Chancellor, as is said, and never meant to send it to the seals till there was great necessity, and so hath covered all his misdemeanors as Chancellor. *But this was a malicious report to his prejudice and mine, as if he had been false, and I too easy, in this matter;* for in truth the pardon did extend to the sixth of November, which could not possibly be by virtue of any old warrant; but the Chancellor foreseeing his fall, obtained a warrant for a new pardon, signed by Mr. Secretary Coventry, and Mr. Solicitor North passed it on Saturday the first of November, and his Lordship intended to have sealed it as Chancellor, for the Privy Seal was directed to him by that name; but it was razed in the King's presence, and directed to me by name with a *nuper Cancellarius* interlined where it mentioned him." This means that Shaftesbury, a few days before he ceased to be Chancellor, foreseeing his fall, took steps for obtaining a pardon covering the period of his Chancellorship, to which he intended to put the great seal himself before leaving office, but the great seal was put to it by his successor, and Finch adds that a story of his having had the pardon for a year and a half in his pocket was "a malicious report." Yet Lord Campbell, in the very page in which he prints Finch's statement, accuses Shaftesbury of having stipulated for the pardon at the beginning of his Chancellorship, that he might "have the pleasure of sinning with an indulgence in his pocket."[1]

[1] Lord Campbell's Life of Lord Chancellor Nottingham, Chap. 91 of Lives of the Lord Chancellors.

It has been one of the earlier accusations imaginatively made by Lord Campbell against Shaftesbury that "he considered himself bound to pay court to Lady Castlemaine" during the period between the Restoration and the fall of Clarendon.[1] It may help to break whatever force there may have been thought to be in this accusation that Lord Essex, the Lord Lieutenant of Ireland, counted on the support of Shaftesbury, as an honest man, in resisting a proposed grant of Phœnix Park, Dublin, to that same Royal mistress, who, since Clarendon's fall, had been rewarded for adultery with the King by the title of Duchess of Cleveland. Some letters of the Earl of Essex on this subject to Shaftesbury, printed from the papers at St. Giles's at the end of the volume, do honour to Essex, and also to Shaftesbury, to whom they are addressed.[2] It will be observed that in one of the letters, Lord Essex also gives advice to Shaftesbury as to the appointment of an Irish Judge, in the expectation that he will prefer merit to interest. After the treaty of Dover of 1670, Buckingham had made himself the agent of Louis XIV. for providing Charles with a French mistress, an unmarried lady of excellent family, Mademoiselle de Querouaille, whom the English called Madam Carwell or Kerwell, and who was also, in reward for adultery with the King, made, in August of this year, Duchess of Portsmouth. It has trans-

[1] See vol. i. p. 314.

[2] Appendix IV. I applied to the present Earl of Essex to learn whether Shaftesbury's replies to Lord Essex's letters were in his possession, and he has informed me that they are not, and that there are no letters of Shaftesbury at Cashiobury.

pired that Shaftesbury, while Chancellor, stood in the way also of the rapacity of this second extravagant mistress. I have found at St. Giles's the following extract from a letter written on September 28, 1673, by Dr. Henry Stubbe to Anthony, Earl of Kent:—"Madam Kerwell (Querouaille) hath had a great loss, two rare coaches, eight Oldenburgh horses (worth each 800*l.*), with all new furniture for her lodgings in winter, besides Japan cabinets, &c. all cast away. A second loss is by the Chancellor's means. She cannot have 30,000*l.* worth of goods out of the East India ships. Neither her warrant, nor Cleveland's, nor Nell Gwynn's would be accepted. But the King of France hath given her his share in the first East India ship, worth at least 30,000*l.*" [1]

The biographer of Shaftesbury who endeavours to tell the true tale of his actions and do justice to his

[1] Mr. G. W. Cooke, the editor of Martyn's Life, has mentioned a reference, in some correspondence of Martyn with Dr. Birch preserved in the British Museum, to some papers which had been shown to Birch by the Duchess of Kent, tending to prove that Shaftesbury had "upon many occasions opposed Charles's prodigal grants to the Duchess of Cleveland." Mr. Cooke adds, that Martyn "does not appear to have been successful in his inquiries, and all trace of these documents is now lost." (Martyn's Life, Preface, p. viii.) The above is probably what the Duchess of Kent had shown to Birch. There are allusions by two of Sir Joseph Williamson's correspondents to the Duchess of Portsmouth's notorious luxury and extravagance at this time. "Mademoiselle Charwell has the famousest chair making that ever was seen, beyond the King's or Queen's by far." (Mr. Ball, June 27, 1673.) Mr. P. Derham, writing to Williamson an account of the debates in Parliament in October, says: "There was brought into the House an account of four hundred thousand pounds given away since last session, of which the Duchesses of Cleveland and Portsmouth had the greatest share. This information was given by Sir Thomas Clarges." (November 3, 1673.) In the report of Clarges's speech, preserved by Grey, nothing more appears on this subject than "400,000*l.* given away in donatives," and no name is mentioned. (Parl. Hist. iv. 600.)

character, after the lapse of two centuries, during which a large mass of misrepresentation has accumulated and calumnies have taken deep root, while the other side of the question has never been properly presented, has necessarily a polemical task. Shaftesbury's proceedings as Chancellor have been much distorted and blackened by a virulent and unscrupulous party writer, Roger North, the brother and biographer of Lord Keeper Guildford, but not himself a lawyer; and Lord Campbell has not only adopted all North's gossiping and ill-natured stories, but has also, by carelessness and the free exercise of inventive fancy, aggravated injustice.

There is a specific charge made against Shaftesbury as Chancellor by Lord Campbell, that, from political subserviency and self-seeking, he first of all urged the King to dismiss the Lord Keeper Bridgman, because he scrupled to grant an injunction in Chancery to prevent suits brought by their clients against the bankers arising out of the Stop of the Exchequer, and then, when he became Chancellor on Bridgman's fall, and found that equity was against the bankers and on the side of their clients, he shuffled the matter off by "the expedient of granting injunctions unless cause should be shown at a distant day, and by some contrivance, the day of hearing was postponed from time to time till he went out of office." The truth as to Shaftesbury is that, having granted a rule *nisi* for an injunction, which was clearly proper, and as to which North admits that it was not against rule, he afterwards refused to make the rule absolute.

He therefore did in the end what Lord Campbell considers the right thing; and in granting the provisional injunction in the first instance he did, even on North's admission, which is ignored by Lord Campbell, what was not against rule. The alleged intrigue against Bridgman for refusing to grant an injunction vanishes into air, for, as has been previously explained, Bridgman was not applied to, while Lord Keeper, for an injunction in Chancery.[1] There is evidence of his having refused to put the great seal to a proclamation for stopping the suits; that is a very different matter. There is no evidence that Shaftesbury countenanced such a proclamation; there is every reason to believe that, in consistency with his avowed opinions from first to last against the stop of the Exchequer, and on the rights of the bankers against the Government and the obligations of the bankers to their clients, he would have strongly opposed such a proclamation. There is also every reason to believe that, if an injunction had been moved for by the bankers against their clients while Bridgman presided in the Court of Chancery, he would have done, as Shaftesbury did, granted a rule *nisi* in the first instance, and afterwards refused to make it absolute.

Lord Campbell is confuted in this instance, chiefly by the aid of his own authority, Roger North, whom he misrepresents. The following is North's account:—

"The bankers' case was very urgent, for the King was extremely concerned for them, and pressed it

[1] See pp. 95-6 of this volume.

home to him [Shaftesbury] that somewhat should be done for them, for they were sued at law, and put to extreme distress, and if not some way assisted, doomed to perpetual gaol. Bills had been filed in some of their names against the pursuing creditors, upon the equity of their having notice of the bonds in the Exchequer, and the public necessity that caused a stop of payments, whereupon they ought to take assignments of their debt upon the tallies, and suits at law be stayed. A motion was made in Court for an injunction, and the matter opened at large as on the merits; the Lord Chancellor, after a little blustering at the unreasonableness of the creditors, granted the injunction, but with a *nisi causa*, &c. at a day some considerable time forward, which gave opportunity in the interim to observe the complection of the House of Commons. Although nothing effectual was taken upon this motion, for the parties, having also an eye upon the Parliament, or not being ready to answer the motion, prayed a day to be heard, and had it, and all not much awry in the forms of the Court, yet it made a noise all over the town and nation, as if his Lordship had granted the injunction absolute." [1]

North says then that the injunction was not an injunction absolute, though it was so misrepresented, and that it was "all not much awry in the forms of the Court." North proceeds to say "that Shaftesbury denied the injunction at the day," which means that, when the case came on for the bankers' clients to show cause against the rule, he refused to make the rule absolute. North chooses to ascribe Shaftesbury's refusal to his having in the interval changed his political

[1] Examen, p. 47.

tactics. But what Lord Campbell, who professes to follow North, and who has no other authority, says is very different; he says that Shaftesbury postponed the day of hearing cause ,shown from time to time until he went out of office. This is absolutely untrue. Cause was shown against the injunction, and Shaftesbury refused to make it absolute. There may have been some postponements and unnecessary delay; but any such delay would be sufficiently explained by the hope of the King and the bankers that Parliament would make provision for the payment of the King's debt, as was urged by the King and by Shaftesbury, speaking for him, when Parliament assembled in February 1673. That hope being disappointed, the bankers' clients proceeded to argue against the provisional injunction. In Shaftesbury's letter to Locke of November 1674, in which he defends himself in the matter of the Stop of the Exchequer, and which was written a twelvemonth after he had ceased to be Lord Chancellor, he distinctly blames the bankers for relying on the Court, by which he obviously means the King, and not proceeding by law against the Treasury, and broadly states that the King would not stop their legal proceedings. "The worthy scribbler, if his law be true, or his quotations to the purpose, should have taken notice of the combination of the bankers, who take the protection of the Court, and do not take the remedy of the law against those from whom they had the assignments, by which they might have been enabled to recover their money and pay their creditors; for it is not to be thought that the King will put a stop to

their legal proceedings in a court of justice." Shaftesbury's opinion was that the bankers had their legal remedy against the Sovereign, and the bankers' clients their right against the bankers; and he desired that Parliament should find the means for the King's paying this debt, and this was again pressed on Parliament, when it reassembled in October, in the opening speeches of both the King and Shaftesbury.

Lord Campbell, adopting and magnifying a number of ill-natured gossiping stories told by North, has represented Shaftesbury as having had his "head turned by his elevation," and as having, as Chancellor, "played fantastic tricks which could have been expected only from a fool and a coxcomb." This general charge is made up of several particulars; a procession on horseback from Shaftesbury's residence, Exeter House in the Strand, to Westminster Hall, on the first day of the first term which began after Shaftesbury became Chancellor, is described as a wanton revival of an obsolete practice in order to display his own horsemanship and maliciously annoy some of the Judges, and as burlesquing the dignity of the law: he is represented as disregarding decency by sitting "on the Bench in an ash-coloured gown, silver-laced and full-ribboned pantaloons displayed, without any black at all in his garb, unless it were his hat;" and he is described as having made himself the laughing-stock of the bar by his arrogance and his ignorance. Accusations such as these at once suggest the idea that they seek to prove too much.

As to the equestrian procession to Westminster Hall,

it is true that this was arranged by Shaftesbury for the opening of Hilary Term, January 22, 1673, and that it was a studied attempt at solemn state. Mr. Justice Twisden is said by North to have fallen from his horse on this occasion; but such an accident might always happen, and it would not suffice to make a *fiasco* of the procession. Lord Campbell says that Shaftesbury revived an equestrian procession, among other reasons, because "he had been colonel of a regiment of cavalry, and to gratify his morbid appetite to be talked of, and out of malice to some of the old Judges, who, he heard, had been sneering at his decisions." This is Lord Campbell's statement of motives, not North's. Lord Campbell has invented this motive of malice to the Judges "who, he heard, had been sneering at his decisions." Now Lord Shaftesbury was made Lord Chancellor near the end of Michaelmas Term, November 17, 1672, and this was the opening of the next law term, Hilary Term, 1673. He is not likely yet to have made decisions to be sneered at. Biography, in this way of writing, really sinks to the low level of libel. The important questions are, was an equestrian procession so obsolete as is represented, and was Shaftesbury's proceeding so wanton and absurd? Lord Campbell says that the procession on horseback had ceased for half a century. The Judges, he says, "still continued to 'ride the circuit' on sober pads, but the *ménage* for learning to sit the great horse, which used to be frequented by the gentlemen of the Inns of Court, was very much neglected, and the practice of riding managed horses in the streets of London had fallen into entire

lisuse." North says "that Judges, &c. were spoken to get horses, as they and all the rest did, by borrowing and hiring, and so equipped themselves with black foot-cloths in the best manner they could." Now Roger North, who is the authority for the long disuse of riding by the Judges with foot-cloths, wrote in the reign of Queen Anne after the publication of Bishop Kennett's History in 1706, some forty years after Shaftesbury's Chancellorship. But John Aubrey, who wrote in 1680, tells a different tale. He says of Dr. Harvey, "He rode on horseback with a foot-cloth to visit his patients, his man following on foot, as the fashion then was, which was very decent, now quite discontinued. The Judges rode also with these foot-cloths to Westminster Hall, which ended at the death of Sir Robert Hyde, Lord Chief Justice. Anthony, Earl of Shaftesbury, would have revived it, but several of the Judges, being old and ill horsemen, would not agree to it."[1] Chief Justice Hyde died in May 1663; the disuse therefore does not appear to have been more than of ten years. It is not impossible that Shaftesbury was influenced by some little vanity and by his own love of horsemanship in this revival. But it is quite certain that his object was to give splendour and solemnity to the occasion. He did not continue the practice of an equestrian procession, probably on account of objections made by judges who disliked riding; and this is the substance of the statement of Aubrey, a better authority than North. The author of "Rawleigh Redivivus," who, though a

[1] Letters from the Bodleian, &c., ii. 386.

passionate eulogist of Shaftesbury, is at least as good an authority as his defamer, North, and who did not write to flatter the living Shaftesbury, but published his eulogy immediately after his death, and so wrote much nearer to the time of Shaftesbury's Chancellorship than North, minutely describes the procession, and says that the streets were "lined with abundance of crowding spectators, who were exceedingly pleased with the decency and gallantry thereof."

Shaftesbury, in swearing in, as Lord Chancellor, Serjeant Thurland, when made a Baron of the Exchequer, said: "Let me recommend to you the port and way of living suitable to the dignity of your place, and what the King allows you. There is not anything that gives more reputation and respect to the Government than that doth; and let me tell you, magistrates as well as merchants are supported by their reputation."[1] Such was Shaftesbury's own ruling motive as Chancellor. He desired in all his public appearances as Chancellor to maintain the dignity of the office, and invest it with splendour. This motive admitted, North's ill-natured charges are inconsistent and incongruous. The following account of his "family," by his Secretary, Thomas Stringer, will be read with interest:—

"Prayers in term-time at seven in the morning, at which my Lord never missed, before his going to the hall, and also at eleven and at six in the evening prayers for the whole family constantly; and on every Sunday in the morning a sermon, and on Easter Sunday and Whitsunday and Christmas Day a Communion.

[1] See the speech in Appendix V.

"My Lady had an apartment by herself, so that his Lordship was not at all troubled with the ladies that came to visit.

"No servant went in the coach with his Lordship but the purse-bearer. The sergeant-at-arms, the secretaries, and gentlemen walked on foot, and the footmen bare by the coach side.

"When the Court was out of town, then the purse-bearer and gentleman usher ridd bare in the coach; the sergeant-at-arms, secretaries, and gentlemen ridd on horseback.

"When my Lord went to take coach or came out of his coach, all the gentlemen, &c., went before him bare-headed; and when he went to Court, the mace and seal were carried before him to the presence-chamber door. And then his Lordship takes the seal and the sergeant lays down his mace, and the gentleman attends there or at his chamber to receive orders.

"None were admitted unto my Lord but such as were brought in by the gentlemen ushers.

"To avoid impertinent petitions, my Lord ordered the secretaries to receive none but such as were certified feasible under the hands of a good practitioner of that Court.

"When days of motion were at my Lord's house, one of the Warden of the Fleet's men waited within the bar with a box, into which all the lawyers within the bar that moved gave two shillings a piece, and they without one shilling, which box and money was delivered to one of the gentlemen ushers; sometimes it would amount to three, four, or five pound a day; and twice or three times in a year my Lord had an account of what monies were in their hands, who ordered what he thought fit to the magistrates of such parishes for the use of the poor whom they thought had most need.

"In a convenient place, a tub with a lock and key to it was set, into which all broken meat was put, and on certain days was distributed by the usher and groom of the hall to such as the magistrates of the parish sent thither: and a beadle always waited about the gate to keep away all others.

"The fines upon originals are now worth about two thousand pound per annum. In my Lord Coventry's time they have been worth three, and may be made so again; out of which the clerk of the fines hath two shillings in the pound.

"The gentlemen ushers, the yeoman usher, and the groom of the great chamber receive fees at the swearing of new officers.

"The clerk of my Lord's kitchen is by his place steward of Staines bridge, and has for his fee twenty shillings per annum.

"There is constantly delivered in for my Lord Chancellor's use a considerable quantity of Newcastle coals yearly.

"My Lord Keeper Coventry was Recorder of divers places, into which he put deputies, but received the fees himself.

"When any Custos Rotulorum dies, the Lord Chancellor has the naming of the clerks of the peace, who gives a sum of money for it, which sum is divided among such servants as he thinks fit.

"My Lord hath the making of a freeman of London every year, which he usually gives to his coachman and footman or groom, and to make advantage of.

"My Lord did not suffer any of his servants to take poundage of brewer or baker or any other.

"My Lady had a waiting-woman and a chamber-maid, two maids in the nursery and two in the laundry, all which dined together, and had hot meat out of the

kitchen. One of the laundry-maids washed the rooms, and the other baked a coarse sort of bread, every morning."

"The ash-coloured gown silver-laced and full ribboned pantaloons," which furnish material for one of the ill-natured criticisms of North adopted by Lord Campbell, are not more likely than the equestrian procession to have been designed or fitted to discredit the office of Lord Chancellor. North says that in this dress Shaftesbury "appeared more like an University nobleman than a High Chancellor of England."[1] The worst of this, if true, would be that the dress, though handsome, was unprofessional. North, it must always be remembered, wrote half a century after Shaftesbury's Chancellorship, and he was certainly not careful to sift gossip. There is much reason to believe that the dress worn by Shaftesbury was deliberately chosen by him, because he was not a lawyer. It was now a long time since a layman had been Lord Chancellor, and eyes accustomed to a black gown may have been puzzled by the novelty, though appropriate, of Shaftesbury's gaudy attire. Mr. Martyn states that Lord Chancellor Cowper explained Shaftesbury's coloured gown by the fact that he was not a barrister.[2]

Roger North has described Shaftesbury, in the Court of Chancery, as despised and baited and in the end beaten and tamed by the bar; and Lord Campbell,

[1] It is, to say the least, unfortunate that Lord Campbell has misquoted this remark of North: he gives it thus between marks of quotation, "appeared more like a rakish young University nobleman," &c. The words, "a rakish young," are Lord Campbell's invention.

[2] Life, vol. ii. p. 13.

who was fully aware that he had had lay predecessors, and who mentions that "there was no refusal to practice before him on account of his ignorance of law, as in the case of Lord Chancellor Hatton and Lord Keeper Williams," yet pronounces that "except being free from corruption,"—an exception for which Lord Campbell is to be thanked,—"he was the worst judge that had ever sat in the Court." This again is a vaulting accusation which proves too much. There might be reason in saying that Shaftesbury was not and could not be a perfect Lord Chancellor. But there is abundant proof extant and patent of acuteness and subtlety of mind, which must have effectually saved him from being contemptible; and a man of his ability may be relied on for knowledge of his deficiencies, and care to prevent great mistakes. His speech in the Court of King's Bench in 1677, and his argument in the Purbeck case of 1678, which may both be read at the end of this volume, and a few protests on questions of law preserved in the Journals of the House of Lords, convincingly show legal knowledge and capacity. Lord Campbell produces no authority, and he has none, for his severe condemnation, beyond North's gossiping and spiteful disparagements. A man of superior talent and energy placed, in deviation from custom and without special training, in a high office, is always exposed to the carpings of envious stupidity and of dulness which cannot see beyond routine; and the good which he effects is probably best measured by the loudness of the outcry of official dolts, formalists, jobbers, and coxcombs.

North has related a story of a friend of Shaftesbury, a barrister, which must have some foundation of truth, and which, though intended in ridicule of Shaftesbury, will probably be regarded as a proof of his good-nature. North says:

"There was one Mr. H——k, a barrister, and in the country a neighbour of his Lordship's, eminent but for nothing more than the honour he had to profess himself his Lordship's friend at the bar, and, if not foully belied, had a knack of encouraging causes by the great, which did not directly accuse, but much reflected on, his Lordship for want of judgment at least, in permitting one so unfit to appear so familiar as he did with his court of justice. . . . The chief practisers are usually very civil to the gentleman that is accounted the judge's friend; and they desire to be in his company to serve his turn with treats, instruction, and inlet to causes, and their own by spying out his humour, the judge's designs and expectations, and what secrets relating to the Court they can pump from him drunk and sober. Once they were merry together with this gentleman, and one of them sprang a conceit, that he was not rightly informed of his privilege, which was to have preaudience at the bar, the Attorney General not excepted. The rest, perceiving the spark erect upon this notion, seconded it, till at last he resolved to claim his post the next day, and so they parted. And accordingly the Court being sat, Mr. Attorney, as his usage was, stood up in order to move first; but Mr. H——k, from without the bar, called out to him, saying, 'Mr. Attorney, pray be pleased to move in your turn,' and then began to open himself. Sir

Henage Finch, then the Attorney General, looked back and stared, concluding the man mad or drunk. But the other persisted so much to be first heard, that the Court had but authority enough to compel him, and none at all to persuade him to be quiet."[1]

Shaftesbury had enough good-nature to treat with kindness a silly inoffensive friend, and had fun enough to enjoy harmless folly.

Dryden's famous eulogium on Shaftesbury as a Judge, in the midst of fierce abuse of him as a politician in "Absalom and Achitophel," is incontrovertible proof of a public opinion that Shaftesbury was a good Judge. It is important to note that the first edition of "Absalom and Achitophel" contained the following lines, which point to a distinction between the Judge and the Minister:—

"Oh! had he been content to serve the crown
With virtues only proper to the gown,
Or had the rankness of the soil been freed
From cockle that oppressed the noble seed,
David for him his tuneful harp had strung
And Heaven had wanted one immortal song!"

These lines certainly contain a qualification of preceding reproach and a germ of praise. The lines which they immediately followed are these:

"In friendship false, implacable in hate,
Resolved to ruin or to rule the state;
To compass this the triple bond he broke,
The pillars of the public safety shook,
And fitted Israel for a foreign yoke,
Then, seized with fear, yet still affecting fame,
Usurped a patriot's all-atoning name."

The first edition of "Absalom and Achitophel" was published on November 17, 1681, a few days before

[1] Examen, p. 58.

Shaftesbury was to be tried in London on a charge of high treason. When the day of trial came, the grand jury threw out the bill of indictment, and Shaftesbury was released from the Tower. A second edition of the poem appeared before the end of December, and in this second edition the following twelve lines were introduced after the passage ending

"Usurped a patriot's all-atoning name,"

and before that beginning

"Oh! had he been content to serve the crown."

"So easy still it proves in factious times
With public zeal to cancel private crimes.
How safe is treason and how sacred ill,
Where none can sin against the people's will,
Where crowds can wink and no offence be known,
Since in another's guilt they find their own!
Yet fame deserved no enemy can grudge;
The statesman we abhor, but praise the judge.
In Israel's courts ne'er sat an Abbethdin
With more discerning eyes or hands more clean,
Unbribed, unsought, the wretched to redress,
Swift of despatch and easy of access."

This is high praise of Shaftesbury as a Judge; but Lord Campbell says that it is valueless. He says that Dryden can be no authority on such a matter, "for the great poet probably never was in the Court of Chancery in his life, and, though the first of English critics in polite literature, he could not have formed a very correct opinion as to the propriety of an order or decree in equity." But the question is, would Dryden, whose object was to attack Shaftesbury, have inserted this praise of him as a Judge if he had not known that his judicial conduct as Chancellor had the approval of even political foes? It is not

Dryden's capacity to form a correct opinion that we have to do with. His praise reflects the general opinion. Lord Campbell proceeds to say that the praise was not honest and sincere, and that it was purchased. The statement that it was purchased rests on an egregiously absurd story, based on no authority, which was long since clearly refuted by Dryden's biographer, Malone, with a strong statement of facts, and which, independently of this refutation, refutes itself by intrinsic absurdity.[1] The story is that Shaftesbury, after the publication of "Absalom and Achitophel," gave Dryden a nomination for the Charterhouse for one of his sons, and that the praise inserted in the second edition was the return for this favour. This story is intrinsically improbable, because, after such an attack, Shaftesbury could not, in human nature, have offered this favour to Dryden, and Dryden could not have accepted it unless with ample apology for the past and entire cessation of attack; whereas the new praise neither cancels nor balances the insults and calumnies of the poem, and further, the second edition of "Absalom and Achitophel" was followed in a few months by a second invective, "The Medal," in which Dryden attacked Shaftesbury even more truculently and calumniously than before. Malone proved that Dryden's son, Erasmus, was admitted to the

[1] See Malone's Life of Dryden prefixed to his edition of Dryden's Prose Works, vol. i. part i. p. 145. The story first appeared in Dr. Kippis's Memoir of Shaftesbury in his edition of the *Biographia Britannica*, published in 1732. Kippis derived his story from Martyn, who was then engaged on his Life of Shaftesbury, and he gives it from memory. It has probably originated in a blunder, lying between Martyn and Kippis. There is no trace in the papers at St. Giles's of authority for the absurd story.

Charterhouse by a nomination of the King, in February 1683, more than a twelvemonth after the publication of the second edition of "Absalom and Achitophel." Malone further showed that a boy, named Samuel Weaver, was admitted on Shaftesbury's nomination a few weeks before the publication of the first edition of the poem. Lord Campbell, taking under his protection this ridiculous and discarded story, suggests that there may yet have been an exchange for mutual convenience between the King's and Shaftesbury's nominees, so bent is he on bolstering up anything which tends to Shaftesbury's prejudice. But is history to be written and public character blasted by setting conjectured possibilities above plain facts and strong laws of human nature? It may be added to Malone's circumstantial disproof, that the boy Weaver, nominated by Shaftesbury, would probably be a relative of the member of Parliament of the Commonwealth with whom Shaftesbury had acted in close connection against Lambert and Fleetwood, in the year preceding the Restoration.[1]

The general contemporary opinion of Shaftesbury's legal qualifications may be further gathered from the anecdote which represents Charles the Second as saying of him that he knew more law than all his Judges, and more divinity than all his Bishops.

Shaftesbury, when he ceased to be Lord Chancellor, was in his fifty-third year.

[1] See vol. i. chap. vii., and Appendix V.

CHAPTER XIV.

1673—1677.

Shaftesbury refuses entreaties of the King to return to office with great offers of advancement—Ten thousand pounds offered him by Ruvigny from the King of France and refused—Meeting of Parliament, January 7, 1674—King's speech denying secret engagements with France—Shaftesbury moves address for requiring Papists to move ten miles out of London—Addresses of the Commons for dismissal of Buckingham and Lauderdale from Court and office—Like address against Arlington rejected—Peace with Holland—Parliament prorogued till November 10—Letter from Dr. Fuller, Bishop of Lincoln, giving a prebend to Stillingfleet at Shaftesbury's request—Samuel Pepys accused in the House of Commons on Shaftesbury's authority of being a Roman Catholic—Shaftesbury's letter to Sir Thomas Meres about Pepys—Shaftesbury ordered by the King to leave town—Removed from the Privy Council—Further prorogation of Parliament from November 10 to April 13, 1675—French influence the cause of the prorogation—Preparations for next session of Parliament—Shaftesbury's letter to Earl of Carlisle, February 3, 1675, recommending a new Parliament—Danby and Lauderdale the leading Ministers in April 1675—Danby joins with the High Church and Cavalier party—Danby's Test Bill—Shaftesbury's vehement opposition to it—His many powerful speeches—Dispute between the two Houses on privilege defeats the Bill and causes prorogation—Shirley's appeal from Chancery to House of Lords—Parliament prorogued from June 9 to October 12—Shaftesbury revives the privilege question in October—Address for dissolution defeated by a majority of only two—Parliament prorogued for fifteen months—Pecuniary subsidy of 100,000*l.* from Louis XIV.—Charles mediator at Nimeguen—Secret treaty between Charles and Louis—Household arrangements at St. Giles's—Dispute with Lord Digby—Shaftesbury brings an action and obtains 1,000*l.* damages—Notices of Shaftesbury in Stringer's letters to Locke—Private affairs—Preparations for meeting of Parliament—Louis intrigues with Opposition against Charles and Danby, and prepares to buy votes.

THE great seal had been abruptly taken away from Shaftesbury on the ninth of November. Before the end

of the month the King wished to have Shaftesbury back. Before the end of the year, M. de Ruvigny, who had come over to take Colbert's place as French ambassador, went to Shaftesbury, by Colbert's direction, to beseech him to return to the King's service, and offered him in vain ten thousand pounds from the King of France if he would do so, and befriend the French alliance.

These important facts do not rest solely on the authority of Stringer, who might fairly be distrusted.[1] Colbert's despatches give the most important part of this information, and so confirm the substance of Stringer's story.

It is stated by Stringer that Charles very soon unbosomed himself to the Earl of Oxford, regretting that he had been forced into dismissing Shaftesbury, and blaming the Councillors who "would not let him be at rest until they had caused him to turn him out, and declaring that he should never be at ease again until he had him again, from whom he always heard his danger." Lord Oxford gave Shaftesbury information of this conversation, through Sir Robert Townshend, who was Shaftesbury's brother-in-law, and gave him reason to expect that the King would send for him. This is told by Stringer. Colbert wrote on November 27 that Arlington had expressed to him his desire that Ruvigny should see Shaftesbury, and that Arlington thought that Shaftesbury was ready to return to the King's service and forward the King's views. "Arlington is even persuaded," says Colbert, "that he has brought back Shaftesbury to his duty, and that he is resolved to regain the

[1] See Stringer's account in Appendix III.

King's favour by acting so as to please him in conjunction with all his friends. Arlington begged me to carry M. de Ruvigny to see Shaftesbury, and he hopes that, after the King his master shall have published the proclamations against Catholics, which are in preparation, the cabals in Parliament will become more manageable on the subject of the alliance with France."[1] Stringer relates a visit from Ruvigny to Shaftesbury about three weeks after Lord Oxford's communication to him. He represents Ruvigny as complimenting Shaftesbury from the kings of England and of France, saying that there were ten thousand guineas waiting for him at the French Embassy if he would send for them, and offering him from the King of England the rank of Duke and any post he might choose, his old one of Lord Chancellor or any other. According to Stringer, Shaftesbury refused all these offers, declaring that it was impossible for him to promote the French king's views, and do his duty to his country of defending the Protestant religion and English liberties. Stringer adds that he was himself in attendance to follow Ruvigny to his carriage, when he quitted Shaftesbury, and that Shaftesbury immediately afterwards gave him an account of what had passed in a conversation of nearly two hours. "I have been assured," says Stringer, writing some thirty years after, "that M. Ruvigny communicated the same to the late worthy Lord Russell, who was his relation and friend, which I presume that honourable and great lady, his widow, can attest." Stringer goes on to say that Shaftesbury thought it right to request an audience

[1] Archives of French Foreign Office.

of the King to inform him of Ruvigny's offers, and that the King quickly appointed him for the evening of the same day at Mr. Chiffinch's lodgings, when Charles pressed Shaftesbury to accept Ruvigny's offers, and Shaftesbury persisted in refusing. There may be some little exaggeration and embellishment in Stringer's details, but the substance of the story is sufficiently confirmed by the following passage of a despatch of Colbert of December 7. Having previously mentioned that Arlington had strongly urged Ruvigny to try to gain Shaftesbury, and had represented that Shaftesbury would not be insensible to offers of money, Colbert writes: "M. de Ruvigny has seen Lord Shaftesbury. After having informed him that the King his master was completely resolved not to separate his interests from those of your Majesty, and that by serving you faithfully he would easily recover his Sovereign's favour, he assured him of your Majesty's gratitude, and that you would give him ten thousand pounds sterling, to reward any persons he might wish to give money to. All this was received very amiably by Shaftesbury, and though he told M. de Ruvigny that in rendering good service to your Majesty he wished nothing more than to recover the King of England's favour and obtain payment of a certain sum of money which he pretends that the King owes him, I think that under this pretext he will take with pleasure what we choose to offer him. I am assured also by the King of England himself, and by Lord Arlington, who are my sureties in this matter, that, if he serves us as usefully as he can do, the money will not be ill employed."[1]

[1] Archives of French Foreign Office.

Shaftesbury did not take the money, and did not resume office. The fact is incontestable on this statement of Colbert that the French Ambassador offered him ten thousand pounds if he would return to office and be subservient to French views. Thus the French Ambassador was on his knees to Shaftesbury, vainly endeavouring to bribe him to resume office, within six weeks after his triumphant rejoicing at "the disgrace of the greatest enemy of France, and the most knavish, unjust, and dishonest man in England." Stringer says that Shaftesbury refused resolutely and altogether. Colbert insinuates that he desired to receive the money. It is not impossible that Shaftesbury may have answered politely and in courtier fashion, and that Ruvigny, from his point of view, may have regarded what was intended merely for politeness as showing want of resolution. It is probable that Colbert did not like to report to the King a peremptory refusal and the hopeless failure of the proposal. The money was clearly intended as a bribe to Shaftesbury, and the suggestion that he might use it for rewarding others was but a mode of smoothing the way with a flimsy formula. The money said to have been mentioned by Shaftesbury as due to him from the King, would probably be a sum of three thousand pounds, for which a warrant, dated November 15, 1673, and directed to Sir Stephen Fox for a privy seal for secret service, exists, not having been used, among the papers at St. Giles's.[1]

[1] This sum of 3,000*l.* would of course not have been a gift, a few days after Shaftesbury's dismissal. Secret service in this reign by no means necessarily means payment for what would not bear the light. An arrear of pension to Dryden was paid in 1679 as secret service.

Shaftesbury's refusal of these great offers from Charles and from Ruvigny, which is now for the first time authentically established from the French Ambassador's despatches, is alone a powerful answer to accusations of indecent and revengeful opposition after dismissal from the Chancellorship. Shaftesbury now placed himself deliberately at the head of a parliamentary opposition to measures tending to establish the Roman Catholic religion and arbitrary regal power in England, to degrade England into abject servility to France, and to effect a French aggrandizement and supremacy full of danger for England and for Europe. Henceforth Shaftesbury is a great popular leader against misgovernment. He is always feared, and in turn courted and persecuted by the King's ministries. Fighting for right against power, he has had the fate of many good men who have boldly battled against wrong in high places. The Court and Government, with its following of the timid, unthinking, self-seeking, and servile, used against him all the engines and batteries of persecution which power easily commands. His actions have been misrepresented, his faults and failings (and who is without fault and failing?) magnified, his character blackened; candid friends have joined against him with foes, to turn to his prejudice the splendid abilities and fiery enthusiasm which marked him for leadership of a great cause; and, invidiously comparing him with decorous gravity and tame caution, have twitted him with the want of the tact of timidity and of the prudence of dulness, ungenerously forgetting that, when a nation's liberties are

to be defended against tyranny and treason, and courage is needed against unscrupulous power, and chicanery must be baffled by promptitude, ardour is a necessity and impetuosity a virtue.

The Parliament met again on the seventh of January, 1674. Its meeting had been dreaded by France as probably fatal to the Dutch war and the French alliance. Colbert had at one time hoped to persuade Charles to a further prorogation till October by the offer of a loan from France, but Charles's pecuniary demands were too high. Louis had authorized Colbert to offer to lend a hundred thousand pounds; Charles stated that fourteen hundred thousand pounds was the smallest sum which would suffice for the expenses of another campaign. About a fortnight before the meeting of Parliament, overtures from the Dutch for a separate peace were made by the Spanish Ambassador and were entertained. Colbert states that Arlington, in informing him of the answer to the Spanish Ambassador, described it as infamous, no mention being made of England's allies, but he declared that there was no alternative from want of money and the hostile feeling of Parliament and the public. When Louis heard of this beginning of negotiations he was furious. "All that Lord Arlington has told you," he wrote to Colbert, "can only cover treachery or a weakness equally prejudicial to me." But he enjoined Colbert to avoid showing discontent, and to tell Charles that, though unable to approve of his resolution, he sympathised with him in his necessities. Louis did not give up all hope that Parliament

might be induced to consent to a continuance of the war, and he had a zealous agent in Buckingham. The great object now was to persuade the House of Commons that there was no scheme for establishing Popery and despotism in England by the aid of France. Buckingham proposed to Louis the communication to Parliament on its meeting, of the treaty between England and France of February 1672, the last of the three treaties. Buckingham, who had been made acquainted with the secret engagements of the first treaty of Dover, which were still in force, now proposed to perpetrate a fraud on Parliament by representing the treaty of 1672 as comprehending the whole of England's engagements with France. Charles and Louis adopted Buckingham's expedient, and consented to execute this fraud. Buckingham had converted the Lord Treasurer, Osborne, to support of the French alliance, and he confided to him his plan and obtained his co-operation. But Osborne did not know of the secret treaty of Dover. The plan was concealed from all the other Ministers till the day before the meeting of Parliament. Then Osborne communicated it to Finch, the new Lord Keeper, who—ignorant, like Osborne, of the secret treaty of Dover—cordially approved of it. Finch went immediately to the King and settled with him the speeches for the next day; and then the King assembled a Cabinet, composed of the Duke of York, Buckingham, Ormond, Osborne, Finch, Arlington, and Henry Coventry. Buckingham's plan, and the King's and Lord Keeper's speeches framed in accordance

with it, were approved by all except Arlington and Ormond.[1]

Charles opened Parliament the day after, January 7, in a speech ending with these mendacious words:—"I know you have heard much of my alliance with France, and I believe it hath been very strangely misrepresented to you, as if there were certain secret articles of dangerous consequence; but I will make no difficulty of letting the treaties and all the articles of them without any the least reserve to be seen by a small Committee of both Houses, who may report to you the true scope of them, and I assure you there is no other treaty with France, either before or since, which shall not be made known to you." The King's and Lord Keeper's speeches were received with applause, and Ruvigny again had hopes. Measures had been taken against Roman Catholics, just before the meeting of Parliament, in the hope of disarming opposition. Orders had been given to the Judges to execute rigorously the penal laws against Roman Catholics; and all known or reputed to be of that faith were forbidden to come to court or enter the palace. But all these expedients were fruitless. The opposition was begun in the House of Lords on the day after the King's speech, Shaftesbury leading the attack, by an address which was carried with only three dissentients, for a proclamation to order all Papists or reputed Papists, not householders, nor attending any peer, to repair to

[1] Mignet, Négociations relatives à la Succession d'Espagne, iv. 234–58.

their dwellings or depart ten miles from London, Westminster, or Southwark. Ruvigny gives the following account of the debate, and Shaftesbury's part in it:—"Lord Shaftesbury, the late Chancellor, made a speech to excite the assembly, saying that he knew well there were in the suburbs of London more than sixteen thousand Catholics who were resolved to strike a desperate blow (*faire un coup de désespoir*), and that no one could be sure of his life while such people were in liberty at the gates of the city, and that it was necessary to think seriously of the means of preventing a massacre which might take place any day. The Earl of Bristol, known to be a Catholic, spoke next, and said he thought they should be sent to a distance of twelve miles from London. But the other Lords wishing to know the Duke of York's opinion, one of them rose and said that they had better proceed to the vote. They were all of opinion, except the Duke of York, the Earl of Northampton, and the Earl of Anglesey, that known or reputed Catholics should be sent ten miles away."[1] After this the two Houses agreed to a joint address to the King for a day of fasting to implore the Divine protection against Popery.

In the House of Commons another address was carried, praying the King to order the Lord Lieutenants of the several counties to have the militia in readiness, and the Lord Mayor the trainbands. In the same House, Lauderdale, Buckingham, and Arlington were attacked. An address was carried for the

[1] January 11, 1674, Archives of French Foreign Office.

removal of Lauderdale from all his employments and from the King's presence and councils for ever, "being a person obnoxious and dangerous to the Government." Another address prayed for Buckingham's removal from all employments held during the King's pleasure and from his presence and councils for ever. A similar address moved against Arlington was rejected after a long debate by 166 votes to 127, and in lieu thereof a Committee was appointed to examine the charges against him and consider whether there was ground for impeachment. The Parliament was prorogued before the Committee reported; but one of the reasons assigned by rumour for the prorogation was, that another desperate attack was to be made on Arlington, and that a report was expected from the Committee containing capital charges against him.[1] Ruvigny states that during this session of Parliament, meetings were constantly held at Lord Holles's house, at which Lords Carlisle, Shaftesbury, Salisbury, Falconbridge, and some others attended, and that the course of the opposition in both Houses was decided at these meetings.[2]

The Lords on the twenty-fourth of January had referred it to a Committee of the whole House, to prepare a Bill comprising the following points:—"1. that the children of the royal family may be educated in the Protestant religion, as established in the Church of England; 2. how to secure the marriages of those of the royal line with Protestants; 3. the disarming

[1] Ruvigny, March 8, 1674, in Archives of French Foreign Office.
[2] February 1, 1674, ibid.

of Romish recusants; 4. that the English Romish priests and English Papists in the Queen's family may be regulated; 5. how to suppress atheism and profaneness." It was afterwards resolved that the Bill should embrace provisions for educating the eldest sons of Roman Catholic peers in the Protestant religion, for the Protestant education of all children of deceased Roman Catholic fathers, for the removal of all Roman Catholic priests, except Portuguese, from the Queen, and that none but Protestants or foreigners be hereafter admitted, and to prevent the sending of English children into foreign countries to be educated in Roman Catholic seminaries.[1] Some further particulars as to these proposals are given in Macpherson's extracts from the Duke of York's Memoirs. It is there said that Salisbury proposed the educating of the Duke of York's children in the religion of the Church of England, and that Lord Carlisle seconded it; that Lord Carlisle further moved for the Bill to prevent the King and other members of the royal family from marrying without consent of Parliament; that Lord Halifax moved the disarming of Roman Catholics, and Lord Mordaunt the removal of English priests from the Queen. We learn on the same authority, that in the debate on the proposal for preventing marriage of any member of the royal family with a Roman Catholic, Lords Carlisle and Halifax proposed that the penalty of disobedience should be exclusion from the succession, that Lord Peterborough declared this a "horrid proposal," and that Shaftesbury replied,

[1] Lords' Journals, Jan. 24, Feb. 3, 5, 10.

"it was not so horrid," and declared that he supported it, "not as a thing he desired should look backward but forward, and for which there had been precedents."[1] In the Commons a bill had been promoted for a new test to distinguish between Protestants and Papists. But all these measures were stopped by the sudden prorogation of the twenty-fourth of February. By that time a separate peace had been made with Holland.

Fresh proposals had been made after the opening of Parliament by the Dutch through the Spanish Ambassador. Charles asked the advice of both Houses, and was urged by both to conclude a peace. Sir William Temple was appointed to negotiate with the Spanish Ambassador in London, and in three days the terms were adjusted. Charles, not contented with instructing his Ambassador at Paris to inform Louis of his grief at being compelled to throw him over, and ask for sympathy in his affliction, wrote afterwards to Louis expressing his extreme sorrow, and begging for pity instead of anger as he had been forced to this.[2] On the eleventh of February, Charles went to the House of Lords and announced that he had followed the advice of the two Houses, and made a speedy, honourable, and, he hoped, lasting peace. The Parliament was no longer indispensable to him; and finding that he could not even now obtain money except on condition of measures for redress of grievances which he was unwilling to grant, Charles suddenly

[1] Macpherson's State Papers, i. 73, 74.
[2] Mignet, iv. 267.

prorogued Parliament on February 24 to the tenth of November. Ruvigny says, that most of the members of the Council knew of this prorogation only after the event, and that the Duke of York and Danby were the two chief advisers of the measure. Ormond and the Lord Keeper declared to him that they knew nothing of it, and the Duke of York told him that it had not been discussed in the Council. "Prince Rupert," Ruvigny writes, "is the person who has shown most anger at this prorogation: the King of England has told me that he had his eyes on him, and observed that when he uttered the word *prorogue*, Prince Rupert changed countenance, and that assuredly he had bad intentions."[1] Ruvigny says also, that Shaftesbury had been charged with a petition to the House of Lords repeating more strongly than ever that Ireland had been in danger of an invasion, that France had intrigues everywhere, and that the Count d'Estrées had had orders to descend on Ireland if the last battle with the Dutch had been successful. "Although mere chimeras," he adds, "he who had undertaken to produce these statements would not have failed to make a great flare." It is stated in Macpherson's extracts from the Duke of York's Memoirs, that Shaftesbury and Carlisle had intended to propose the disbanding of the Duke of York's regiment.[2] The bill for the new test which had obtained the approval of the Commons during this session, went the length of excluding Catholics from the two Houses of Parliament and

[1] Archives of French Foreign Office.
[2] Macpherson's State Papers, i. 74.

from the King's presence, and of requiring them to remain at a distance of four miles from London; and the Duke of York was principally aimed at. The Duke's friends, however, succeeded in carrying in the Commons, by a majority of two, a clause to except him. This is said to have so disgusted Shaftesbury, that he declared he did not care what became of the bill.[1]

It is interesting to learn by the following letter from Dr. William Fuller, Bishop of Lincoln, that that excellent Bishop regarded Shaftesbury with respect, and at this time, just after his dismissal from the Chancellorship, gave Stillingfleet a prebend at his request. Stillingfleet was born at Cranborne in Dorsetshire in 1635, and the vicinity of his birth-place to Wimborne St. Giles's may have been the origin of Shaftesbury's interest in him. But Stillingfleet's writings in favour of comprehension of Protestant Dissenters and against the Roman Catholic religion necessarily furnished stronger grounds of sympathy. Stillingfleet was at this time in high reputation as a champion of Protestantism; he had lately published his work on the Idolatry of the Church of Rome, and Bishop Burnet had in the previous year taken him to the Duke of York, to argue with him against the Roman Catholic religion.[2]

"HATTON GARDEN, *January* 27, 1674.

"MY VERY GOOD LORD,—That your Lordship may perceive I have not been unmindful of the promise made, I have conferred on Dr. Stillingfleet the prebend of North Kelsey, which is the more acceptable to

[1] Life of James, i. 490. Macpherson's State Papers, i. 77, 81.
[2] Hist. of Own Time, ii. 25.

him, because it lies very conveniently, and is that which he desired.

"I wish your Lordship all happiness from my heart. The times are bad, but I comfort myself with the close of Bishop Duppa's Epistle before Archbishop Spottswood's History of Scotland,—

'Non, si mala nunc, et olim sic erit.'

"Beseeching God to guide and protect you, I rest,
"Your Lordship's most humble
and affectionate servant,
"GUL. LINCOLN."

The following letter of Shaftesbury relates to an accusation made in the House of Commons against Samuel Pepys that he was a Roman Catholic; and it is necessary to introduce it with a short statement.

Pepys had been lately returned to the House of Commons for the borough of Castle Rising, and the defeated candidate had petitioned against the return. When the House took the petition into consideration on the tenth of February, a debate arose, and some members accused Pepys of being a Roman Catholic. The accusation was, that he had an altar and crucifix in his house, and Sir Robert Thomas, one of the members who had accused him, having been ordered by the House to name his informants, named Shaftesbury and Sir John Banks. Pepys rose in his place and denied the charge. Mr. James Herbert and Lord St. John supported Thomas's accusation, and also cited Shaftesbury as their informant. Sir William Coventry, Sir Thomas Meres, and Mr. Garroway were ordered to attend Shaftesbury to make inquiry of him as to

what he had seen and knew; they did so forthwith, and Sir W. Coventry reported on the thirteenth to the House as follows: "The Earl of Shaftesbury denieth he ever saw an altar in Mr. Pepys his house or lodgings. As to the crucifix, he saith he hath some imperfect memory of seeing somewhat which he conceived to be a crucifix. When his Lordship was asked the time, he said it was before the burning the Office of the Navy. Being asked concerning the manner, he said he could not remember whether it were painted or carved, or in what manner the thing was, and that his memory was so very imperfect in it, that if he were upon his oath, he could give no testimony." This report by Coventry is printed in the Journals. It appears from Grey's reports that Garroway dissented from the last clause of Coventry's report, mentioning imperfect memory and inability to declare on oath, and that Lord O'Brien then spoke of a letter from Shaftesbury to Meres, and the following letter was then read:—

"Exeter House, *February* 10, 1674.

"Sir,—That there might be no mistake, I thought best to put my answer in writing to those questions that yourself, Sir William Coventry, and Mr. Garroway were pleased to propose to me this morning from the House of Commons, which is that I never designed to be a witness against any man for what I either heard or saw, and therefore did not take so exact notice of things inquired of as to be able to remember them so clearly as is requisite to do in a testimony upon honour or oath, or to so great and honourable a body as the House of Commons, it being some years' distance since I was at

Mr. Pepys his lodging. Only that particular of an altar is so signal that I must needs have remembered it had I seen any such thing, which I am sure I do not. This I desire you to communicate with Sir William Coventry and Mr. Garroway to be delivered as my answer to the House of Commons, it being the same I gave you this morning.

"I am, Sir,

"Your most humble Servant,

"SHAFTESBURY."[1]

After the reading of the letter, Sir William Coventry observed, "There are a great many more Catholics than think themselves so, if having a crucifix will make one." Sir John Banks attended the House by order on the sixteenth, and stated that he had never seen an altar or crucifix in Pepys's house, and did not believe him to be a papist or popishly inclined. The further debate on the petition was then adjourned to the twenty-sixth of February, before which day the Parliament was prorogued. Pepys remained a member. It is possible that Shaftesbury had spoken indiscreetly in private, and said more than he could substantiate. But Lord Braybrooke, as is natural in Pepys's editor and biographer, accuses Shaftesbury in connexion with this incident in an exaggerated tone. "Painful indeed is it to reflect," he says, "to what lengths the bad passions which party violence inflames could in those days carry a man of Shaftesbury's rank, station, and abilities." No one of that period has suffered more from the

[1] This letter does not appear in the Commons' Journals; I have found it among the papers at St. Giles's.

injustice of party passion than Shaftesbury himself. It is clear from the letter to Meres, that Shaftesbury showed no malice and much scrupulousness, when a formal charge involving important results was founded on his loose private conversations.

After the prorogation of February 1674, Shaftesbury was watched by the King as a dangerous opponent. It is stated in the extracts published by Macpherson from the Duke of York's Memoirs, under date of March 1674, that Shaftesbury received an intimation from the King to go down into the country. The passage is as follows, and it must be read with the recollection that it comes from an adversary:—"Shaftesbury, pretending fear of having his throat cut by the Roman Catholics, lay one night at least in the city at the house of one Cook, a fanatic, and both then and before he did all he could to promote petitioning his Majesty to call a Parliament for the redress of grievances. He endeavoured to get the Lord Mayor to consent to the Common Council's meeting once a month, and had it even proposed in a Court of Aldermen. But the Lord Mayor would not consent, and said they should not use him as the King had been used. The King sent Sir Paul Neal to Shaftesbury to let him know that he heard he was about to take a house in the city to live there. He forbade him at his peril, looking on it as a design to do there as he had done in Parliament, and that he would do well to go down to the country as soon as the weather would permit. Shaftesbury answered that he had no design."[1] On the nineteenth of May Shaftesbury was dismissed

[1] Macpherson's State Papers, i. 74.

from the Privy Council. The entry in the Privy Council Book is as follows:—"His Majesty this day in Council, declaring his displeasure against the Earl of Shaftesbury, commanded the Clerk of the Council that his name be henceforth left out of the members of the Privy Council."[1]

Ruvigny, in a despatch of May 25, reports Shaftesbury's dismissal from the Privy Council, and adds that Shaftesbury had also been ordered to leave London in order to prevent his acting in concert with the Dutch Ambassador, who had lodged in his house, occupying three-fourths of it.[2]

Shaftesbury now retired into the country, and lived more at St. Giles's than official duties had for a long time past permitted. The following reference to Shaftesbury, in a letter from Sir W. Coventry to Mr. Thynne, of June 27, is mysterious: the rumour probably would have been that he was to be brought to trial. It might, however, have been that he was to be himself appointed Lord High Steward for the trial of some one else. In his own letter to Lord Carlisle of February next, he speaks of late rumours of great offices destined for himself. "We are told in these parts," writes Coventry, "that my Lord Shaftesbury went up to London in very great haste, whether for his good or evil was left a doubt; at least the newsmakers were

[1] Obtained from the Privy Council Office.

[2] Archives of French Foreign Office. I do not know what is Dr. Lingard's authority for a statement that Shaftesbury was believed to have guided in the winter of 1673–4 a project for the invasion of England by the Prince of Orange. (Hist. of England, xii. 50.) I believe that this is a mistake of Lingard's, who is particularly inaccurate in this part of his History.

pleased to whisper that there was a Lord High Steward to be made, which you know portends trial of a Peer, for all which I can learn no other ground but his hasty journey."[1]

The Parliament which had been unexpectedly prorogued on the twenty-fourth of February, 1674, to the tenth of November, was further prorogued, before this day arrived, to the thirteenth of April, 1675.[2] The prorogation from November 1674 to April 1675 had been strongly urged by Louis, and Charles resolved on it in order to oblige the French king. England had now made a separate peace with Holland, and Louis feared that the Parliament would further drive Charles into an alliance against him. Ruvigny wrote on the sixth of September that Charles had determined on a further prorogation to gratify the King of France, that the secret was confided to him alone, and that Charles intended to surprise his Council. On the first of October, Ruvigny writes that the King had a few days before declared in the Privy Council, that there were essential reasons for a further prorogation of Parliament, and that he did not wish any one to speak on the matter, which he had well considered. This declaration, Ruvigny goes on to say, astonished them so much, that only three broke silence; the King observed their looks of astonishment, which satisfied

[1] Longleat Papers.

[2] A mistake of Dalrymple has deceived Dr. Lingard and other historians, who state that the second prorogation of November was in consequence of an agreement with Louis, and a payment by him to Charles of 500,000 crowns. This pecuniary transaction, which again is not quite correctly stated, belongs to the following year. The despatch of Ruvigny of September 2, 1675, erroneously cited by Dalrymple as of 1674, is printed by Mignet (vol. iv. p. 367).

him and Ruvigny that the prorogation was a good measure.[1]

The following letter of February 1675 from Shaftesbury to Charles Howard, Earl of Carlisle, with whom he had been politically associated during Oliver Cromwell's Protectorate and at the Restoration, sounds the note of opposition for the session then shortly to begin. We learn from this letter that Shaftesbury's most confidential coadjutors in the House of Lords, at this early period of his leadership of a Parliamentary opposition, were the Earl of Carlisle, the Earl of Salisbury, Lord Holles (the Denzil Holles of early days and true to the cause of good government in a venerable old age), Lord Falconbridge (the husband of Cromwell's daughter, Mary, to whom Shaftesbury is said to have made love), and Lord Mordaunt. A new Parliament was to be the cry. The present had been in existence fourteen years. This letter was circulated before the meeting of Parliament among the opponents of the Court, and was afterwards printed as a political manifesto :—

"*February* 3, 1675.

"MY DEAR LORD CARLISLE,—I very much approve of what my Lord Mordaunt[2] and you told me you were about, and should, if I had been in town, readily have agreed with you, or upon the first notice have come up; for it is certainly all our duties, and particularly mine,

[1] Mignet, iv. 320.

[2] Lord Mordaunt was the second son of the first Earl of Peterborough, and was created Viscount Mordaunt by Charles II. shortly before the Restoration, for important services rendered to him during his exile. He died very soon after the date of this letter, in June 1675. His eldest son succeeded ultimately to the Earldom of Peterborough, and was the celebrated Earl of military renown.

who have borne such offices under the Crown, to improve any good correspondence or understanding between the royal family and the people, and not leave it possible for the King to apprehend that we stand on any terms that are not as good for him as necessary for us. Neither can we fear to be accounted undertakers at the next meeting of Parliament, for I hope it shall never be thought unfit for any number of Lords to give the King privately their opinion when asked; since, in former days, through all the northern kingdoms, nothing of great moment was acted by their kings without the advice of the most considerable and active nobility that were within distance, though they were not of the ordinary Privy Council; such occasions being not always of that nature as did require the assembling the great Council of Parliament. Besides, there are none so likely as us, nor any time so proper as now, to give the only advice I know truly serviceable to the King, affectionate to the Duke, and secure to the country, that is, a new Parliament, which I will undertake at any time to convince your Lordship is the clear interest of them all.

"But, in the mean time I must beg yours and my Lord Mordaunt's pardon that I came not up as I intended; for I hear, from all quarters, of letters from Whitehall that I am coming up to town, that a great office with a strange name is preparing for me, and such like. I am ashamed I was thought so easy a fool by those who should know me better; but I assure your Lordship, there is no place or condition will invite me to Court during this Parliament, nor until I see the King thinks frequent Parliaments as much his interest as they are the people's rights; for, until then, I can neither serve the King as I would, nor think a great place safe enough for a second adventure.

"When our great men have tried a little longer, they will be of my mind. In the mean time, no kind of usage will put me out of that duty and respect I owe to the King and Duke; but I think it would not be amiss for the men in great offices, who are at ease and where they would be, to be ordinary civil to a man in my condition, since they may be assured that all their great places put together shall not buy me from my principles. My Lord, I beseech you to impart this to the Earl of Salisbury, my Lord of Falconbridge, and my Lord Holles;[1] and when you four command me up, I will obey.

"I am sorry my Lord Halifax had no better success in his summer's negotiation; and that his uncle Sir William[2] could make no nearer approach to the Ministers of State than the kissing the King's hand. I fear it is fatal to his Lordship's uncle to go so far, and no farther.

"My dear Lord,

"I am, most passionately and sincerely,

"Your Lordship's most devoted servant,

"SHAFTESBURY."

[1] The peers here mentioned as acting with Shaftesbury and Carlisle are those named by Ruvigny as meeting during the previous session of Parliament to regulate the proceedings of the Opposition. See p. 189. James speaks on various occasions of Carlisle and Shaftesbury as the chief advisers of Charles to own the Duke of Monmouth as legitimate, and as the originators of the idea. (Life of James, i. 490. Macpherson's State Papers, vol. i. p. 45, 1668, p. 72, 1673, p. 83, 1675.) The Duke of York had been alarmed in May 1674 by an audience given by the King to Carlisle and some others who had been most prominently his adversaries in the preceding session. (Ruvigny, May 7, Archives of French Foreign Office.) The Earl of Salisbury is James, third Earl, grandson of the Earl who sat in the House of Commons during the Commonwealth, after the abolition of the House of Lords. He married a daughter of the Earl of Rutland, and was thus brother-in-law of Shaftesbury's son.

[2] Sir William Coventry; Lord Halifax's mother was a daughter of Lord Keeper Coventry, and Halifax was also nephew of Shaftesbury's first wife. It appears from this that there had been some overtures from Halifax and Coventry to the Government in the summer of 1674.

When the Parliament met in April 1675, Danby and Lauderdale were the two leading Ministers. Buckingham had been discarded by Charles after the close of the session of 1674, in which an address had been made for his dismissal from the Ministry; and we shall see him in the coming sessions prominent in opposition to Danby, and turning to good account the brilliant abilities which nature had lavished on this dissolute and unreliable man. Arlington was transferred from the Secretaryship of State to the honourable but less responsible post of Lord Chamberlain, and was succeeded as Secretary by Sir Joseph Williamson. Charles clung to Lauderdale, and a second attack on this unprincipled favourite in the first session of 1675 still failed to procure his removal.

Danby endeavoured to maintain himself against both Roman Catholics and Protestant Dissenters by a close union with the Church and the old cavalier party. He directed severe measures against the Roman Catholics. He now caused to be proposed to Parliament a measure entitled "An Act to prevent the dangers which may arise from persons disaffected to the government," and prescribing the following test for all officers of Church and State, and members of both Houses of Parliament:—"I do declare that it is not lawful upon any pretence whatsoever to take up arms against the King, and that I do abhor that traitorous position of taking arms by his authority against his person, or against those that are commissioned by him in pursuance of such commission, and I do swear that I will not at any time endea-

vour the alteration of the Government either in Church or State, so help me God." This was the same test which had been inserted in the Five-Mile Act of 1665, and which Shaftesbury, then Lord Ashley, had always vigorously opposed, with the old loyalist Earl of Southampton to aid him. In the Oxford session of 1665, in which the Five-Mile Act was passed imposing this test on Dissenting members, an unsuccessful endeavour was made to pass another bill to make the same test of general application. Osborne, then a private member of the House of Commons, had helped to defeat the bill, and among its then opponents was a friend of Osborne, Lord Bertie, who had now become Earl of Lindsey and Lord High Chamberlain. Osborne was now Earl of Danby and Lord Treasurer, and having formed a close alliance with the High-Church party, he endeavoured to rivet this non-resisting test on the nation, and selected the Earl of Lindsey to propose the measure to the House of Lords. The measure was first introduced in the House of Lords, and was there met by a powerful opposition, in which Shaftesbury, Buckingham, Holles, Wharton, and Halifax were prominent. The bill having been read a second time, there followed a debate, which lasted five days, on the motion that it should be committed to a Committee of the whole House; "which," says the writer of the "Letter from a Person of Quality," who gives an admirable account of the proceedings on this measure, "hardly ever happened to any bill before." The debates were carried on in the Committee of the whole House, and in the House not in Committee,

with extraordinary vigour for seventeen days in all; the Government party triumphed by numbers; Shaftesbury and his coadjutors entered many protests. "Lord Shaftesbury," says Burnet, "distinguished himself more in this session than ever he had done before; he spoke once a whole hour to show the inconvenience of condemning all resistance upon any pretence whatsoever; and the very ill consequence it might be of to lay such an oath on a Parliament."[1] The Bishop adds that though Shaftesbury's words were watched, with a resolve to send him to the Tower if anything said by him could be laid hold of for such a proceeding, his caution was equal to his boldness. Shaftesbury had carefully noted down a long paper of reasons against this bill, which has been preserved among his papers, and is printed at the end of this volume.[2] This was the armoury from which he drew forth, in the course of these long and animated debates, many speeches of ingenious argument, learned discussion, and exciting eloquence. On one occasion, when Shaftesbury had asked where was a precise definition of "the Protestant religion," which it was required by the test to swear not to endeavour to alter, the Lord Keeper Finch made merry with this question, and begged that "it might not be told in Gath or published in the streets of Askelon, that a lord of so great parts and eminence, and professing himself a member of the Church of England, should not know what is meant by the Protestant religion:" and the Lord Keeper was

[1] Own Time, ii. 73.

[2] In Appendix VI.

followed by Dr. Morley, the Bishop of Winchester, who gravely told Shaftesbury that "the Protestant religion was comprised in the thirty-nine articles, the liturgy, the catechism, the homilies, and the canons." Whereupon Shaftesbury, with ready wit and learning, poured forth a theological discourse on the articles, the liturgy, the catechism, the homilies, and the canons which stunned the Lord Keeper and amazed the Bench of Bishops.[1] There is an anecdote that during one of his speeches on this bill, he overheard one of the Bishops saying to his neighbour, "I wonder when he will have done preaching;" and he stopped to notice the interruption, and said, "When I am made a Bishop, my Lord."[2] Buckingham powerfully aided Shaftesbury in this opposition. Andrew Marvel, describing these great debates, and giving his admiration to the opponents of the bill, says: "It might be injurious, where all of them did so excellently well, to attribute more to any one of those Lords than another, unless, because the Duke of Buckingham and the Earl of Shaftesbury have been the more reproached for this brave action, it be requisite by a double proportion of praise to set them two on equal terms with the rest of their companions in honour."[3] The protests in the Lords' Journals enable us to enumerate the Lords who eagerly joined in the opposition; and the author of the "Letter from a

[1] This speech, as described in the pamphlet called "A Letter from a Person of Quality to his Friend in the Country," may be read in Appendix VI.

[2] Martyn's Life, ii. 123.

[3] "Growth of Popery and Arbitrary Power in England," in Marvel's Works, vol. i. p. 516.

Person of Quality to his Friend in the Country," whose principal object was to describe these debates, has marshalled all Shaftesbury's followers on this occasion for distribution of praise.[1] The speakers against the bill, with Shaftesbury and Buckingham, were Lord Holles, Lord Halifax, the Earl of Salisbury, Lord Wharton, Lord Grey of Rolleston, Lord Mohun, the Earls of Bridgwater, Clarendon, Ailesbury, Denbigh, Bolingbroke, Lord Delamere, the Earls of Dorset and Carnarvon, Lord Audley, and Lord Petre. These were the speakers: the protests contained also the names of the Marquis of Winchester, the Earls of Bedford, Devonshire, Burlington, Berkshire, and Stamford, Viscount Say and Sele, Lords Paget, Eure, Fitzwalter, and Townsend, and Viscount Hereford. The Earl of Rutland, Lords Sandys, Herbert of Cherbury, North, and Crewe sent their proxies for opposing the bill. The writer comments severely on the defection of the Earl of Carlisle, Lord Berkeley, and Lord Falconbridge. "If you ask after the Earl of Carlisle, the Lord Viscount Falconberg, and the Lord Berkeley of Berkeley Castle, because you find them not mentioned amongst all their old friends, all I have to say is that the Earl of Carlisle

[1] This pamphlet was in the next session ordered to be burnt by the House of Lords. The question of its authorship has already several times been alluded to in this work. It has been traditionally ascribed to Locke, and is printed in his collected works. But Locke's distinct and decided denial of the authorship of any political tract whatsoever during the reign of Charles the Second renders it impossible to hold him to be the author. See note in page 261 of the first volume. This tract was doubtless prepared under the immediate superintendence of Shaftesbury, who may have written much or most of it himself, and would have employed some one else to put it all together and send it to the press. The pamphlet has many marks of Shaftesbury's style.

stepped aside to receive his pension,[1] the Lord Berkeley to dine with the Lord Treasurer; but the Lord Viscount Falconberg, like the nobleman in the Gospel, went away sorrowful, for he had a great office at Court. But I despair not of giving you a better account of them next session, for it is not possible, when they consider, that Cromwell's major-general, son-in-law, and friend, should think to find their accounts amongst men that set up on such a bottom." Two or three Roman Catholic Peers were among the opponents of this bill. It is stated in the extracts published by Macpherson from James's Memoirs, that Shaftesbury and his friends tried to persuade the Duke of York and the Roman Catholic peers to join with them, and that two, who were more particularly pressed, replied that, if they irritated the King, they might be put out of the House of Lords, and Shaftesbury's party help to put them out, and that "Shaftesbury swore he and his friends never would, and wished his tongue might cleave to the roof of his mouth if he ever spoke for so unjust a thing."[2]

This Test Bill was got rid of by a violent quarrel between the two Houses on privilege, purposely fomented, it is supposed, by Shaftesbury and his party, which forced the King to a prorogation. Burnet says that Shaftesbury 'took credit to himself for having created the dispute between the two Houses in order to get rid of the obnoxious Test Bill, but the Bishop reasonably doubts if the beginning of the dispute was by design.[3]

[1] Carlisle was about this time appointed Governor of Jamaica; he had been one of Cromwell's major-generals.

[2] Macpherson's State Papers, i. 81–2. [3] Own Time, ii. 75.

The Parliament was prorogued on June 9, 1675, to October 13; and when Parliament met again in October, the question of privilege was revived and was perseveringly pressed by Shaftesbury. The question in dispute was the right of the House of Lords to entertain an appeal from the Court of Chancery. The adversary of Dr. Shirley, the appellant, was Sir John Fagg, a member of the House of Commons. Shaftesbury maintained the Lords' right, moved to appoint a day for the hearing of Dr. Shirley's appeal, and carried his motion.[1] The Commons, in fury, renewed offensive resolutions denying the right. Another prorogation was imminent, and Lord Mohun, a zealous member of Shaftesbury's party, moved in the House of Lords an address to the Crown for a dissolution of the Parliament. The Duke of York and the Roman Catholic peers joined Shaftesbury's party, and the result was that Lord Mohun's motion was defeated only by a majority of two, this meagre majority being made by proxies. This vote was immediately followed by a prorogation on November 22, for the unusually long period of fifteen months, until February 15, 1677.

Charles had made secret preparations for an annual payment from France, which smoothed the way for this prorogation. He had in the previous September proposed, through Ruvigny, to Louis that he should either receive 500,000 crowns from Louis for proroguing from October till the end of April 1676, or that he

[1] Shaftesbury's speech on this occasion was printed and published. It is in Appendix VI. at the end of this volume.

should let Parliament meet in October, and then, if he found it hostile to France, dissolve it, and in this case receive 500,000 crowns a year. Louis chose the latter alternative, and Ruvigny persuaded Charles to agree to a reduction of the 500,000 crowns a year to 100,000*l.* a year.[1] When the Parliament was prorogued for fifteen months, Louis, though unwillingly, agreed to pay the one hundred thousand pounds which he had promised, for the event of a dissolution, notwithstanding that this was not a dissolution, but only a long prorogation.[2]

The English King, who thus continued to be the pensioner of the King of France, had, immediately after the conclusion of the separate treaty of peace with Holland in 1674, offered his mediation between France on the one hand and Holland and her allies on the other; all parties had accepted the mediation, and a congress had been opened at Nimeguen in July 1675. Very soon after this prorogation of November 1675,—indeed in the following February,—Charles, the mediator, united himself closely with Louis by a secret treaty, which he himself proposed, and which bound the two Kings not to give aid, direct or indirect, to the other's enemies or protection to the other's rebel subjects, and not to make any treaty with Holland or any other State but in concert and by mutual consent. This secret treaty was known in England only to the Duke of York, Danby, and Lauderdale; Danby had disapproved of it, and done everything in his power to obstruct it; the Duke of York and Lauderdale had zealously supported

[1] Mignet, iv. 367—370. [2] *Ibid*, iv. 376.

it. Charles wrote out with his own hand and sealed with his private seal the copy of this treaty sent to Louis, who in turn wrote out himself and sealed with his private seal the copy for Charles. Ruvigny wrote to Louis, February 27, 1676, that, it having been proposed that the Lord Chancellor and the other Ministers should be consulted, Charles had refused, saying that "as he was mediator, the conjuncture of the period did not permit that there should be the least knowledge of his having concluded and signed a treaty with France, and that the affair would infallibly be public, if it went to his Council, and if he must employ his great seal."[1]

There may be inserted here a minute account, which is among the papers at St. Giles's, of the economy of Shaftesbury's country house as regulated in July 1675. It shows the manner of his private living, and is interesting as an account of a wealthy English nobleman's household arrangements two centuries ago.

Orders for my Lord Shaftesbury's house at St. Giles's in Dorsetshire, settled in July 1675.

To sit at the Steward's table :—

Mrs. Jane Barbour, Mrs. Mary Percivall, Mrs. Paine Ayscough, Mrs. Elizabeth Birch, Mr. Stringer, Mr. Chesnell, Mr. Sheppard, Mr. Hughes.

This table to be set with fresh victuals a little after my Lord's, and the victuals afterwards are to serve the maids' table.

[1] Mignet, iv. 381; Dalrymple, ii. 105. M. Mignet's narrative of this secret treaty supplies defects and corrects errors in Dalrymple's account: this treaty did not contain a stipulation for a pension, as Dalrymple and others following him have stated.

To sit at the Gentlemen Waiters' table :—

Mrs. Frances Stanly, Sir John Hanham's maid, Mary Paine, my Lord's gentleman, Mr. Prowet, Mr. Saxby, the Page, my Lord Ashley's servant, Falconer, Mr. Baker, John Wiseman, Head-brewer, Head-cook, Head-butler, Head-gardener, and all Gentlemen Waiters that come with strangers.

This table is to be set presently after my Lord has dined, with part of the victuals that come from his Lordship's table.

To sit at the Grooms' table :—

The Porter, William Blake, Thomas the groom, George the groom, my Lord Ashley's coachman, my Lord's footman, Under-butler, and all the grooms and footmen that wait upon strangers.

This table is to be set at the same time with the Gentlemen Waiters' with the other part of the victuals that come from my Lord's table.

To sit at the Maids' table :—

Under-housekeeper, Hester North, Ann Measure, Margaret Dowse, Betty Butler, Joan Jutty, Susan Bayly, Grace Burbadge, Anne Street, Mary Smith, Dorothy Ashbourn.

This table is to be set after those of the Steward's table have dined, with the victuals that come from that table, and what they shall want more is to be supplied with fresh victuals out of the kitchen.

To sit at the last table :—

William Skye, William Huntsman, my Lord's postilion, Under-brewer, Under-gardener, Lord Ashley's groom, Lord Ashley's postilion, William Bryant, Dairy-boy, Kitchen-boy, Stable-boy.

This table is to be set after the gentlemen waiters and the other grooms have dined, and to be served with the meat from both these and the maids' table.

To bring up the first course and wait at my Lord's table:—

My Lord's gentleman, Mr. Saxby, Page, Lord Ashley's servant, Groom of the Chambers, Clerk of the Kitchen, Falconer, Mr. Baker, William Blake, Lord Ashley's coachman, my Lord's footman, Lord Ashley's footboy, Head-butler.

Of these—

My Lord's gentleman, Mr. Saxby, the Page, Lord Ashley's servant, Groom of the Chambers, Falconer, Mr. Baker, when the first course is brought up, are not to go forth of the dining-room till my Lord and Lady have dined.

The Clerk of the Kitchen is to go up and down to see things in order.

William Blake, Lord Ashley's coachman, my Lord's footman, Lord Ashley's footboy, who are to be assisted by Thomas Hopkins, Huntsman, Lord Ashley's postilion, Lord Ashley's groom, Mr. Locke's boy, Mr. Hodges' boy, are all (or so many of them as the Clerk of the Kitchen shall appoint for the service) to bring up the second course and carry down the first and second courses into the kitchen and bring up the fruit.

The Clerk of the Kitchen is constantly to go down with both the courses and fruit, that none of it be taken away, and to see the meat warmed as it comes from my Lord's table.

My Lord's footman is to take care of bringing down the plates to the scullery, and he is to call either my Lord Ashley's footboy, or Mr. Locke's and Mr. Hodges' boys to help him.

The Usher of the Hall and the Under-butler are to carry down the oyster shells and clean the room after them.

The Under-butler is to help the Head-butler to bring up his things in the dining-room, and afterwards is to go and attend at the Steward's table together with the Porter, George the groom, Thomas the groom, William Bryant.

To bring in dinner and wait at the Gentlemen Waiters' table :—

Usher of the Hall, Huntsman, Lord's postilion, Under-brewer, Under-gardener, and such of my Lord Ashley's people as his Lordship shall appoint.

The grooms are to bring in their own dinner, and the stable-boys are to help them and wait at their table.

The maids are to bring in their own dinner, and the dairy and kitchen boys are to help them and wait at their table.

The Usher of the Hall and William Bryant are to carry away all the things out of the steward's room and hall into the kitchen.

The Dairy-boy and Kitchen-boy are to carry all the things from the maids into the kitchen.

William Bryant and the Dairy-boy are to carry forth the victuals to the poor people at the gate, and the Porter is to see the distributing of it.

The Clerk of the Kitchen and Cook are to take care that there be no resort of persons into the kitchen and pantry after eleven o'clock, nor until after the victuals are carried forth to the poor people, but those offices during that time are to be kept private.

In the autumn of 1675 Shaftesbury had an angry quarrel with Lord Digby, the eldest son of the Earl

of Bristol, who had been in early life Secretary of State to Charles the First, and who was still living and taking part in politics in the House of Lords. The death of Colonel Strangways had made a vacancy in the representation of Dorsetshire Lord Digby was a candidate, and Shaftesbury, who at first expected that there would be no opposition to Lord Digby, and was disposed to acquiesce in his election without a contest, afterwards persuaded a Mr. Moore to oppose him. Lord Digby considered that Shaftesbury had previously promised him his support, and intemperately accused him of breach of faith. They met at a social gathering at Fernditch Lodge, the house of Mr. Tregonwell in Dorsetshire on August 27, and Lord Digby then upbraided Shaftesbury violently, and addressed to him, with other reproaches, the following words which five witnesses in Shaftesbury's interest subsequently attested: "You are against the King, and for seditions and factions, and for a commonwealth, and I will prove it, and, by God, we will have your head next Parliament."[1] This altercation caused a great scandal. Shaftesbury brought an action against Lord Digby for slander, and obtained a verdict against him with 1,000*l.* damages.

The following letter from Shaftesbury to Mr. Bennett, a Dorsetshire gentleman, gives his account of the affair, and is interesting in its bearings on public affairs and the management in those times of county elections :—

[1] The paper declaring these to have been Lord Digby's words was signed by Lord Ashley, Sir Robert Murray, Mr. Anthony Shepherd, Mr. W. Saxby, and Rev. John Highmore (Shaftesbury's chaplain), and is among the manuscripts at St. Giles's.

"*August* 28, 1675.

"MR. BENNETT,—I cannot but give you an account of the affair between me and my Lord Digby, it being come to that height to which my Lord Digby's ill-temper hath brought it. Mr. Hussy, whose mistake and natural good humour and particular kindness to me hath blown this coal, delivered me a letter from my Lord Digby to this effect: that upon the discourse of Colonel Strangways being made a Peer, who is just dead, the gentlemen of the country at the assizes had importuned him to serve as their knight of the shire in his room, and desired my concurrence. I writ no answer neither then nor since to my Lord's letter; but in as civil terms as I could, and suitable to the respect I bore my Lord's quality and relatives, I told Mr. Hussy that the intimate friendship was between me and Mr. Freke would not permit me to give an answer until I knew his mind, for, if he stood, I and my little interest must certainly be for him. I saw not Mr. Hussy after that, until I met him in Guissage Street, where there passed no more words between us, I being in a coach and he a horseback, but that I told him Mr. Freke did not stand, and I knew no opposition to my Lord. The Saturday after, at the usual meeting at Blandford, the discourse amongst us was that my Lord Digby had nobody stood against him, but that we were all for him, as indeed I was at the time, but we neither obliged one another nor any of ourselves to my Lord or any of his agents that I know of, nor there was no one there that appeared to act on my Lord's behalf; so that all was mere discourse, and no obligation upon any, and you are my witness that I had no reason to be obliged, since I proposed both unto Sir William Portman at the hunting and to the company at Mr. Freke's afterwards, that we might send

to my Lord Digby and the gentlemen of the west to give us a meeting at Blandford, and there unanimously and friendly agree on the election, which was not liked, and so I desisted. The day after that meeting at Blandford I had advice from a very good hand that my Lord Digby would not prove as some of us expected, upon which Mr. Whitaker doing me the favour to come over and dine with me, he may remember that I then told him I had great doubts concerning my Lord Digby and of the designs of some of our great men above, and the correspondence my Lord had with them. Upon this I sent to Mr. Browne of Frampton, to persuade him to stand, which he refused. Mr. Moore was then at Tunbridge Wells, and since his return myself and several of the gentlemen and freeholders of this county have prevailed with him to appear, but he declares that if Mr. Freke will yet please to stand, he will sit down and give his votes for him, for what he doth is merely for the service of the country; but I thought it an unreasonable thing to send to you or any other of my friends (with the advantage of time that my Lord Digby had without a competitor had pre-engaged) to ask your civility unto him, until I was sufficiently enabled to make appear how little he was like to answer those expectations you had of him, and what were the conditions of your being for him, but this my Lord hath sufficiently done to my hands, for meeting him yesterday by accident at Fernditch Lodge, before a great deal of company and ladies, he quarrelled with me for being against him, and told me that he was for the King and his country, and that I was against the King and for a commonwealth, and that he would have my head the next Parliament, and all this, notwithstanding I had met him some days before at Bowridge and told him that the reason I was not

for him was that I was assured he was not for us, and that he had not dealt well with me to expect and seek my assistance whilst he kept a correspondence and was of the interest with some persons he well knew of; but my wife being then in the coach, I told him that whenever his Lordship would give me an honest discourse, I would sufficiently convince him that he had done me the injury in endeavouring to make ill use of me to serve that interest, and that otherwise I had that respect for him, being a nobleman, and that might be of so great use to the King's service and public interest that I should ever desire to have all possible respect paid him by good men. Now, Mr. Bennett, judge you, if this be the case, as I have twenty witnesses, whether all honest men that love their country are not disengaged from their promise to him, nay rather, whether they are not obliged to oppose him, unless they mean his person and not the public interest. It is not my quarrel, for, as for what concerns me, I shall presently seek a public reparation. Sir, I have no more to say but that you will please to communicate this unto the rest of my friends. "I am,

"Your very affectionate friend and servant,

"SHAFTESBURY."[1]

[1] Among the papers at St. Giles's is a letter from the Bishop of Bristol (Dr. Mews) canvassing for Lord Digby. Peers openly interfered in elections to the House of Commons in those days, and here we see how vigorously a Bishop worked his clergy at an election.

"MR. FUSELIS,—The friendship of Colonel Strangways whilst living and his loss now dead we have all reason to remember; the first with respect and the latter with sorrow, and more especially when we consider what designs are laid in choosing a representative to succeed him, one Mr. Moore, in opposition to the Lord Digby, whose dissenting principles are as evident as the other's loyalty, an offer so threatening the interest of our King and Church (considering his interest made by the Earl of Shafton), that I cannot in discharge of my duty to God and man suffer the design to pass without opposition, and therefore do earnestly desire you will not only vote yourself for the Lord Digby, a person of great honour and known loyalty, but also engage what freeholders

Lord Bristol, probably inflamed by this quarrel with his son, had an altercation with Shaftesbury in the following session of Parliament, on the excited debates on the privilege question caused by Dr. Shirley's appeal. The Lords' Journals say that "some words fell from the Earl of Bristol reflecting on the Earl of Shaftesbury;" and "it was resolved, *nemine contradicente*, that nothing that hath been said this day in this House concerning the Earl of Shaftesbury by the Earl of Bristol hath made any impression upon this House to the prejudice of the Earl of Shaftesbury." Lord Bristol was ordered to ask pardon of the House and of Lord Shaftesbury, "which the Earl of Bristol presently did accordingly."[1]

Very shortly before the prorogation of November 22, 1675, Locke had gone abroad for his health, and he remained away from England till May 1679. He resided during most of the time of his absence at Montpelier. There is a series of letters from Stringer to Locke, while abroad, preserved among the Locke Papers at Lord Lovelace's, which give interesting glimpses of

you can to vote with you, for at this time it's both our interest and duty so to do, as we honour the King and love the peace of Church and State, and recommending this to your care to send to your neighbouring clergy, from whom I desire a zealous regard of this business. With my respects to you and them, I remain your loving friend and diocesan,

"*Sept.* 13, 1675, *Bristol.* GOL. BRISTOL.

"I have sent my Secretary into Dorsetshire on purpose to disperse these letters amongst you, and I hope you will be careful so to send these from one to another that the whole diocese will be sensible of my desire to them."

[1] Lords' Journals, Nov. 15, 1675. This was a day of great excitement in the House of Lords. There were angry words also between Lord Shaftesbury and Lord Arundel of Trerice; and the Lord Keeper, by direction of the House, enjoined them both "that there be no further proceedings to any resentment upon any words passed between them this day," and they both promised obedience. Lord Bristol had reflected on Lord Mohun as well as on Shaftesbury, and was obliged to ask pardon of Lord Mohun likewise.

Shaftesbury. On November 25, Stringer gives Locke a commission from Shaftesbury for some trees, and asks him to find some one to whom Shaftesbury may at any time write for more trees when he wants them. On February 10, 1676, Stringer writes:—

"Your things are all safe and well that you left at Exeter House, where yet we all are, besides my wife, who is settled at Bexwells, in Essex, and hath the happiness of entertaining me there once in a week. My Lord Shaftesbury and Lady, I thank God, are in very good health, though my Lord hath lately been violently afflicted with the gout. The cause proceeds vigorously against Digby, and will come to a trial by a jury of Wiltshire gentlemen in Easter term. Your boy Jack continues still in my lady's favour, and is much the better beloved for his old master's sake. Be sure to remember sending word when you will be back at Paris, that Sir William Cooper,[1] Mr. Hoskins, and myself may have an opportunity of meeting you there."

A week later, Shaftesbury is rid of the gout and rejoicing at the news that some vines and seeds are on their way to him from Locke. Stringer writes, February 17:—

"*February* 17, 1676.

"My Lord, who, I thank God, is very well, was very well pleased with the news of those vines and seeds you have promised him, and hath packed up your

1 Sir William Cooper, the second baronet, was member for Hertford, and a strong political partisan and warm friend of Shaftesbury. He was the father of Earl Cowper, the Lord Chancellor, and of Spencer Cowper, the Judge, and was through the latter great grandfather of the poet. Shaftesbury speaks of him in one of his letters as his cousin.

letter for the improvement of his understanding in these matters. Both him and my Lady are very much concerned for you, and hope in a little time to see you here again perfectly recovered. A great misfortune hath lately befallen the bankers, which hath straitened all, and proved very fatal to some, especially three of the folks. Sir Stephen Fox hath so long been toiled in business that the Treasurer thought convenient he should now take his ease, and retire from those troublesome employments, and young Kingdon succeeds in those undertakings. Sir Robert Payton is also eased of all his troublesome commissions, and a friend of ours is advised to go into the country, but a lawsuit and some other business is like to hinder it. Doctor Sydenham presents his service to you, and is now printing his book."

The friend who had been advised to go into the country is doubtless Shaftesbury. It is stated in Macpherson's extracts from the Duke of York's Memoirs that "Shaftesbury had refused to go out of town on the King's message to him by Secretary Williamson, on hearing that he was about things contrary to his service."[1]

On April 6 Stringer writes:—

"*April* 6, 1676.

"I am very sorry to hear that your cough doth increase upon you. Sir Paul Neile is still of opinion that to come to England and marry a young woman is the best remedy. My Lady hath received your box of orange trees, and values them as a very choice present from one of her best friends. She hath sent to Serjeant Stephens, who is a man of great delight in gardens; and he hath undertaken to manage them for her. My Lord is also

[1] State Papers, i. 84, under date February 1676.

pleased exceedingly with his present of vine cuttings, and hath taken the best care he can to preserve them. They do both, amongst other of your friends, heartily desire your recovery, and long to see you again in England. I thank God they are both in very good health, but in some trouble where to take another house, because we have now disposed of Exeter House to builders, and are to remove from thence by Midsummer next, but at our removal I shall take care of all your things.

"A great Duke[1] hath lately declared himself a dissenter from the Church of England, and divers great Lords are following his example. My Lord Ashley and Lady were lately in town, and tells us his children are all very well. Mr. Hoskins and Mr. Hodges we expect in town this week, and Dr. Thomas the next, and then you may expect a further account of matters. In the mean time, I rest,

"My dearest friend, yours as sincere as ever,

"T. STRINGER."

In April 1676, the Council of Trade and Plantations, of which Shaftesbury had been President since April 1672, ceased to exist, being superseded by the King's order by a Committee of the Privy Council, of which Shaftesbury, lately dismissed from the Privy Council, was of course not a member.[2]

A letter of June 5 reports Shaftesbury's success in his action against Lord Digby.

"Even from Digby's own evidence, that trial was the greatest vindication of my Lord in that concern of the

[1] Perhaps the Duke of Buckingham.

[2] An official communication to Shaftesbury from the new Committee of the Privy Council, dated April 14, 1676, informing him of the change, is among the papers at St. Giles's.

election that could be imagined, the Lord Digby's witnesses making forth to a high degree what we most hotly wished for witnesses to prove, that, had the jury given no damages, that very examination in so extreme crowded a court was a most honourable justification; but the jury were pleased to give a further evidence of it by their verdict of one thousand pound damages, but they did declare to the Judge who took their privy verdict that they did consider how the Earl of Bristol was still living, that Digby had but a small estate in hand, and that they were not willing to perpetuate a feud between two noble families, otherwise they would have given much greater damages. Digby's counsel afterwards moved in arrest of judgment upon a pretended error in the declaration, which exception the last term was argued by the counsel on both sides, and the Judges the Saturday last gave their opinions on that error, which was that it was no error, and that My Lord of S. ought to have his judgment. This being the unanimous opinion of the Court, I am this afternoon to tax the costs of the suit and make forth the execution. You may imagine what favour a man is like to find that did at first begin and can since carry on his affront with so high provocation.

"We are yet at Exeter House, but a week or ten days hence my Lord and Lady are removing to St. Giles, and then Exeter House will be forsaken. Our goods are to be carried to a house in St. Martin's Lane, where our family will settle all the next winter. The Chief Justice Hales hath laid down his place, and Rainsford is sworn Chief Justice in his room. The Lord Chief Baron Turner is dead, and Mr. Attorney Montague is sworn into his place. Sir John Duncomb is turned out, and Sir John Earnly is Chancellor of the Exchequer. My Lord Ashley and his family are going from St. Giles;

only Mr. Anthony is to remain with his grandfather by agreement and to be educated by him. Mrs. Clark is delivered of a young son, and methinks looks prettily for a mother.

"Here are divers shells and strange things sent you from the Bahamas, which my Lord hath communicated to Mr. Boyle; they are now before the Royal Society. I doubt not but in some short time you will have a learned lecture. I have just now taxed 152*l.* for costs (besides the damages) on my Lord Digby."

In July Shaftesbury quitted Exeter House, in the Strand, which he had taken when Chancellor:

"*July* 8, 1676.

"By this you will have the news of all our removal from Exeter House, the gentleman who hath taken it being coming this week to pull it down and rebuild it all into small tenements. My Lord Ashley and his Lady with their two younger sons are gone to Haddon[1] to spend the remainder of this summer and ensuing winter, there to save charges and gather a good stock, that the next spring they may begin housekeeping at Martin.[2] St. Giles being empty, my Lord Shaftesbury and his Countess are gone thither to visit Mr. Anthony, who is left to their care and tuition, and a little after Michaelmas they resolve to come again to London, but to what house is yet uncertain, for at present we have taken one in St. Martin's Lane to hold the goods, but they are seeking after another for their habitation, and whereabout his lot will fall I am not able to guess, though Russell House in Southampton Square we have all a mind to, and Mr. Attorney is willing to part with it, if we can agree as to terms."

[1] Haddon Hall, the Earl of Rutland's, in Derbyshire.
[2] Martin is a village near St. Giles's, in Dorsetshire.

The negotiation for Russell House went off. In a business letter of Shaftesbury's to Stringer, of July 15, he writes: "I am not rich enough to buy Mr. Attorney's house." He afterwards had an offer of Thanet House, in Aldersgate Street, and this house he took. "I am extremely obliged," he writes to Stringer on October 23, 1676, "to my Lord Thanet for his favours, and pray return my humble acknowledgments of them; but I cannot allow myself above eight score pound a year for a house, and if that sum would rent it, I shall be a very good tenant, and take it for any term." The following characteristic letter on business to Stringer bears date August 15, 1676:—

"MR. STRINGER,—I have received your two letters of the fifteenth and twenty-eighth of the last month, but have not written to you since before this. As for your accounts, you will bring them with you, which will be time enough; but I desire at present the foot of your account, and that I may receive every fortnight an exact note of what receipts you shall have either from mine or Wallop's estate, for, as it is, I am not master of my business, nor know where I am or what I may do; therefore, pray be punctual and exact in this. I am very secure in your integrity, ability, and kindness to me, and rely on it; but without this I cannot judge for myself. Pray call on Mr. Wilson and Mr. Curwen for their two papers. I desire you will sell for me as much of my Guyney stock as will sell for thirty per cent. profit or better, and let me know what Mr. Kiffen says to our silks. There is a purchase near me I am very desirous of: the sooner I can turn these things into money the better. Pray speak with Major

Huntington to take off one of my shares of the Bahamas. I ask but my principal, which is 150*l.* and 13*l.* paid since. This they gave Sir George Carteret, some months since. Let me know if you think my letter to him will cause him to do it. Sir James Hayes writes me that Mr. Wright has sent down fifty pound to our mines in Somersetshire; I fear he had the news only from Mr. Wright himself. We are all well here, God be praised, and wish the same to your family at Bexwell, particularly a good time and a boy to the mistress of the house."

Shaftesbury had many pecuniary speculations. The above letter speaks of Somersetshire mines. Other letters of this time to Stringer tell us that he had shares in a Cardiganshire mine, and was preparing to embark money in a Derbyshire "discovery." A short letter on money-matters of August 20 ends with a literary commission for Stringer to execute at his stationer-landlord's. "Let Mr. Lownds send me down by the next convenience the Earl of Clarendon's book against Mr. Hobbs, well-bound and gilt, and titled on the back."[1]

As the time approached for the meeting of Parliament, after the extraordinarily long prorogation of fifteen months, Shaftesbury and his political friends held much serious consultation on the course to be pursued when the day of meeting, February 15, 1677, arrived. They doubted and disputed the legality of a prorogation for a time exceeding a twelvemonth, and further doubted and

[1] Clarendon's answer to Hobbes's Leviathan, then newly published at Oxford; it was licensed by the Vice-Chancellor, July 1, 1676. Clarendon had died in December 1674. Hobbes was still alive; he died in 1679.

disputed the valid existence of the Parliament after such a prorogation. Pamphlets maintaining these views were published and circulated. It became known that, when Parliament met again, serious discussions would arise out of the fifteen months' prorogation.

When this long prorogation came to a close in February 1677, no real progress towards peace had been made at Nimeguen. The States-General and their allies hoped that the English parliament, when it met, might second Danby's known sympathies, and compel Charles to aid them against France. Louis had in vain endeavoured to persuade Charles to make another prorogation. He had instructed Courtin, who had replaced Ruvigny as French Ambassador in England, to offer Charles another hundred thousand pounds, or even a larger sum, for the next year, if he would prorogue the Parliament to 1678; but Charles's necessities were too great. He owed about a million sterling, and had lately been unable to obtain a loan of four hundred thousand pounds from the City. Strongly urged by Danby, he determined therefore to try what he could obtain from the Parliament; it was said that, if he would break with France, the Parliament would give him a supply of 1,600,000*l.* Charles, however, assured Louis that nothing would prevail on him to break his engagements to him. But Louis did not place his sole trust in Charles's assurances. On the eve of the meeting of Parliament, he authorized the conclusion of a treaty of commerce and navigation with England, to conciliate the English merchants, and he sent two hundred thousand francs to Courtin to be spent among

members of Parliament. Courtin was permitted to treat, in concert with the Duke of York, with the leaders of the opposition, Shaftesbury and Holles, and with the Nonconformists, to make trouble for Danby, if Danby opposed the policy of France; and he was again authorized to promise Charles a continuance of the subsidy of a hundred thousand pounds if he would prorogue or dissolve the Parliament.[1] There had been some eighteen months before, in the summer of 1675, a negotiation between the Duke of York, the French Ambassador, Ruvigny, and some parliamentary leaders of the English Protestant Nonconformists, for mitigation of hostility to French policy, on condition of increased indulgence to Protestant Dissenters; and that negotiation had doubtless paved the way for the present proposed concert with Shaftesbury and his friends.[2]

[1] Mignet, iv. 434.

[2] Ibid. iv. 365. These negotiations are referred to and described in Coleman's letter to Father La Chaise of September 29, 1675, brought to light in the prosecution of the Popish Plot in 1678.

CHAPTER XV.

1677–8.

Meeting of Parliament February 15, 1677—The legality of the fifteen months' prorogation called in question—Buckingham moves that the Parliament has ceased to exist, because prorogued for more than a twelvemonth—Salisbury, Shaftesbury, and Wharton support Buckingham—The four Peers sent to the Tower for a contempt against the King and the House of Lords—Letter to Locke suggesting to him to be tutor to a son of Sir John Banks going to Paris—Letter of Stringer to Locke—Adjournment of Parliament from April 16 to May 21—Shaftesbury petitions the King without success—Parliament again adjourned on May 28, and not to reassemble till the winter—Shaftesbury moves for a *habeas corpus* in the King's Bench—His speech—The Court refuses relief—Strictness of Shaftesbury's imprisonment increased—The other three Peers released from the Tower by the King—Charles's difficulties with the Parliament, which presses him to side with the Allies against France—His applications to Louis for money after the adjournment of May 28—Parliament further adjourned by proclamation to December 3—Louis grants Charles 180,000*l.*, Charles having asked and pressed for 200,000*l.*—Marriage of Prince of Orange with the Princess Mary—Further adjournment of Parliament to April 10—Shaftesbury in the Tower—Stringer's letter to Locke—Severity of imprisonment relaxed—Letter of H. Coventry to Sir J. Williamson giving King's leave for visits of Shaftesbury's friends—Intended petitions to King and Duke of York and circular letter to Peers—Charles sends terms of peace to Louis—The terms refused—Vigorous conduct of Charles—Parliament called for January 15—Treaty with Holland and military preparations—Parliament assembles on January 28—Shaftesbury's petitions—He submits, and is released on February 26, 1678—Resolution of the House of Lords of November 13, 1680, censuring the imprisonment of the four Peers, and ordering the erasure from the Journals of all records of proceedings connected therewith—Shaftesbury's letter to his bailiff—Grateful letter to Shaftesbury from his brother.

On the morning of the fifteenth of February, 1677,—the day appointed for the reassembling of Parliament

after the long prorogation of fifteen months,—an unusual crowd filled Westminster Hall and all the approaches and antechambers of the two Houses, brought together by excited expectation of debates on the question whether the Parliament had not really ceased to exist by reason of an illegal prorogation for a period exceeding a twelvemonth. In the House of Lords, as soon as the Commons had withdrawn after the King's and Lord Chancellor's speeches, the Duke of Buckingham raised the question, and moved that it should be considered, "whether this Parliament be not dissolved, because the prorogation of this Parliament for fifteen months is contrary to the statutes of fourth Edward III. and thirty-sixth Edward III." The first statute referred to, fourth Edward III., c. 14, contains the words, "It is accorded that a Parliament shall be holden every year once, and more often if need be." The thirty-sixth Edward III., c. 10, after reciting the provisions of Magna Charta and other constitutional statutes, prescribed that "for maintenance of these articles and statutes, and the redress of divers mischiefs and grievances which daily happen, a Parliament shall be holden every year." Buckingham argued that, these provisions being unrepealed, a prorogation for a period exceeding a year was illegal, and that the Parliament which now met by such illegal prorogation could not legally act. A prorogation, he contended, to a day more distant than a twelvemonth was a prorogation to a day unknown to the law, and really a prorogation *sine die* or virtual dissolution. Even if the matter was only doubtful, he urged the necessity of preventing doubts by

immediately calling a new Parliament. As soon as Buckingham sat down, Lord Frescheville, a Peer of no parliamentary importance, who was probably put forward by others for the purpose, moved that Buckingham should be called to the bar for an offence against the King and the House in denying the legal existence of the Parliament. The Earl of Salisbury denounced this motion as extravagant; it was supported by Lord Arundel of Trerice. Then Shaftesbury entered into the debate, warmly defending Buckingham, and reasserting all his propositions. There is a full and authentic report of the speech in which Buckingham raised the question, but no portion of Shaftesbury's or of any of the other speeches in the debate has been preserved. Andrew Marvel says of Shaftesbury that he appeared "with such extraordinary vigour, both in what concerned the Duke of Buckingham's person and his proposal, that, as the Duke of Buckingham might have stood single in any national contest, so the Earl of Shaftesbury was more properly another principal than his second."[1] Lord Finch, the Lord Chancellor, answered Shaftesbury, and Lord Wharton afterwards spoke on Buckingham's side. After a discussion of five or six hours, Buckingham's motion was rejected. It was afterwards moved to call Buckingham, Salisbury, Shaftesbury, and Wharton to account for maintaining that the Parliament is dissolved, and the debate on this motion was adjourned till the next day. Then it was determined that the four Lords, after being heard in their defence, should withdraw, and, after they

[1] Marvel's "Growth of Popery and Arbitrary Power in England," vol. i. p. 531 of Works, 3 vols. 4to.

had withdrawn, it was resolved to require them all to ask pardon of the King and of the House.[1] A distinction was made between the cases of Buckingham and Shaftesbury and those of Salisbury and Wharton. The two last were acquitted of asserting that the Parliament was dissolved, and their offence was reduced to a denial of the legality of the prorogation. They were called to appear in their places, there to be reprimanded by the Lord Chancellor, and to be required to acknowledge the offence and ask pardon of the King and of the House. Buckingham and Shaftesbury were judged guilty of the greater offence of maintaining that the Parliament was dissolved, and it was decided to call them to the bar, and require them on their knees to make the following submission: "I do acknowledge that my endeavouring to maintain that this Parliament is dissolved was an ill-advised action, for which I humbly beg the pardon of the King's Majesty, and of this most honourable House." Buckingham had left the House while the Lords were deliberating on his fate; the House pronounced this to be a very great contempt, and the Usher of the Black Rod was ordered to apprehend him, and bring him the next day in custody. Salisbury, Shaftesbury, and Wharton, successively refused to make the submission required of them; and thereupon each was ordered to be brought to the bar of the House as a delinquent, there to receive sentence of committal to the Tower during the pleasure of the King and of the House. All three were taken to the Tower the same day. The Black Rod

[1] The question being put that the four Lords should withdraw, there was a division: 53 for their withdrawing and 30 against. (Life of James, i. 506.)

failed to find Buckingham, but he voluntarily appeared in his place the next day, jokingly excused himself by domestic duties for his absence when he had been wanted the day before, and, being ordered to the bar, refused, like the three other Peers, to make the apology required of him, and was sent to the Tower.

The argument of Buckingham and Shaftesbury was ingenious, but not conclusive. It was, indeed, no answer to their argument, and hardly better than a quibble, that in the words of the fourth of Edward III., "every year once, and more often if need be," the "if need be" applied to "every year once," as well as to "more often," so as to make yearly parliaments optional. The words of the later act of the thirty-third of Edward III. were unequivocal as to the holding of a Parliament every year. Nor perhaps would it be a sufficient answer to a statement of existing law that it had been often and long disregarded in practice. But the famous Triennial Act of the Long Parliament had enacted and provided for the calling of parliaments every three years, and had enacted that a parliament at the expiration of three years from the beginning of its first session was *ipso facto* dissolved; and though this act had been repealed in 1664, the repealing act, which was in force, provided also "for the holding and assembling of parliaments once in three years at the least." Even in the acts of Edward the Third it was neither declared nor implied that an existing Parliament was terminated or *ipso facto* dissolved by prorogation or adjournment for more than a year; and it might fairly be doubted if a Parliament, not dissolved, ceased to be held or assembled while suspended from

business by prorogation or adjournment. Strictly, also, as the year then began on March 25, the Parliament, prorogued on November 22, 1675, to February 15 of the year which would now be called 1677, but was then 1676, was prorogued to a day in the succeeding year. But though Buckingham's and Shaftesbury's argument was inconclusive, they were entitled, if they pleased, to maintain it; and the punishment of the four Peers was a flagrant abuse of power and violation of freedom of speech. Lord Halifax, who had opposed Buckingham's motion, and had endeavoured to dissuade Shaftesbury and his friends from raising the question, spoke vehemently against the calling of the four Peers to account for their speeches.

In the House of Commons the same question was raised more delicately and cautiously, several members, among whom were Lord Cavendish, Sir Harbottle Grimstone, Colonel Birch, Mr. Russell,[1] and Sir John Coventry, recommending that some step should be taken to clear doubts as to whether the statutes of Edward III. applied, or that the Parliament should be dissolved. The debate was adjourned, and resumed on the seventeenth, when the knowledge of what had been done in the House of Lords had the effect of further quieting opposition, and it was determined by 193 votes to 142 not to proceed with the question of the prorogation.

The House of Lords made an order that the four Peers should be kept apart in the Tower, and not be permitted

1 The afterwards celebrated William, Lord Russell. He was at this time Mr. Russell, a younger son, and became Lord Russell in the beginning of 1678, on the death of his elder brother. At this time his wife, who was widow of Lord Vaughan, was called Lady Vaughan.

to meet except at church, and that no one should be allowed to visit them without the leave of the House except their necessary servants and attendants. Bishop Burnet says that Shaftesbury and Salisbury gave great offence to the King by asking permission to have their own cooks.[1]

The following letter of Shaftesbury to Locke was written from the Tower, a few days after his imprisonment. Sir John Banks, whose son he consigns to Locke's care, was a wealthy citizen of London, and a strong political friend of Shaftesbury:[2]—

"*February* 23, 1677.

"SIR,—Sir John Banks, my intimate good friend, is sending his son into France to travel about that country for four or five months. He hath already learned the French tongue, but is only willing to let him see the manners of those people. Sir John intends to send him over to Paris about a fortnight hence, in the custody of Sir Richard Dutton, who is going thither, and there is very desirous, if you will undertake that charge, to have him recommended to your care. In order thereunto, he begs the kindness of you to come and meet him at Paris, where Sir Richard Dutton is to deliver him up to your care. As for the charges of your travels, Sir John is to defray them, and will otherwise, as he saith, give you such a reward as becometh a gentleman.

"I am, your most affectionate friend and servant,

"SHAFTESBURY."

[1] Own Time, ii. 108.

[2] Evelyn had been consulted a little before about a tutor for Mr. Banks. "Dined with Sir John Banks at his house in Lincoln's Inn Fields, on recommending Mr. Upman to be tutor to his son going into France. This Sir John Banks was a merchant of small beginning, but had amassed 100,000*l*." (Evelyn's Diary, August 25, 1676.)

A letter of Stringer to Locke tells us that Locke accepted the charge of tutor to Mr. Banks in Paris, and mentions that Shaftesbury and his fellow-prisoners were hoping for a prorogation, which by ending the session of Parliament would necessarily bring them release from imprisonment. The power of either House of Parliament to imprison expires with the session. This hope was disappointed, for Charles, instead of proroguing, continued the session of Parliament by a series of adjournments, and Shaftesbury remained in the Tower for more than a twelvemonth. "Our little friend" in the following letter to Locke must be Shaftesbury:—

"LONDON, *August* 9, 1677.

"DEAR SIR,—I received your letter from Toulouse, and am glad to hear you are so far on your journey towards us. I should be mighty glad all things would so far concur, that we might be so happy to see you perfectly well in England this summer. My Lord is yet in the Tower, with the other three to accompany him; but we expect this week a prorogation, and then the prisoners will be enlarged. There have been great endeavours against our little friend; but the air has now grown very clear, and the season toward the end of a stormy winter puts us in expectation of fair weather at hand. We hear of no other discourses concerning your two other friends, Mr. H. and S., but that the fine month of April, that gives life and freshness to all other things, will send them out of a dirty, stinking air, from ill-meaning, base, and despicable company into the sweet and pleasant country, to receive the delightful embraces of their wives and mistresses. Sir John Banks is very much satisfied with your taking the charge of his son;

he concludes him as well as though he was under his own care, and I am very well pleased you have so fair an opportunity to close your travels this summer. I rest, "Your affectionate faithful servant,

"T. STRINGER."[1]

Parliament was adjourned on the sixteenth of April until May 21, and the four Peers remained in the Tower. After the prorogation they petitioned the King for release, but with no success. A joint petition was first presented, and, this failing to obtain attention, they petitioned the King separately. Lady Russell, Lady Shaftesbury's cousin and the intimate friend both of her and her husband, dined in the Tower one day in April, soon after the first joint petition had been presented, and mentions the disappointment of the Lords at receiving no answer. "The Lords have no answer of their petition: Mr. Shepherd has not been heard from; Charlton came in, he says the King told Mr. Shepherd he came post, but his answer would not be so hasty; nothing will be done in it, it is thought."[2] Shepherd was a retainer of Shaftesbury, or, in the language of the time, his "gentleman." Shaftesbury's separate petition was presented early in May by his brother-in-law, Henry Coventry, the Secretary of State.[3]

Parliament met again on May 21, and was quickly again adjourned on May 28 to the sixteenth of July. The four Peers were again disappointed, and the more, as it was publicly announced that the King did not

[1] From the Locke Papers at the Earl of Lovelace's.
[2] Lady Russell's Letters, i. 33, ed. 1853.
[3] Savile Correspondence, published by the Camden Society, p. 50.

intend Parliament to meet in July, but to prolong the adjournment into the winter. Shaftesbury now resolved to seek a remedy at law, and a motion was made by counsel in the Court of King's Bench on June 23 for a writ of *habeas corpus* on Shaftesbury's behalf. The return to the writ was made on June 27, on which day Shaftesbury was brought up to the bar of the Court of King's Bench. The return was the warrant of commitment of the Lords "during his Majesty's pleasure, and the pleasure of the House," for high contempt against the latter. The case was argued two days later, on June 29, before Chief Justice Raynesford, and Judges Wild and Jones. The counsel for Shaftesbury were Messrs. Williams, Wallop, and Smith; the Attorney-General, the Solicitor-General, and Serjeant Maynard appeared against him. When the three adverse counsel had spoken in reply to his own lawyers, Shaftesbury claimed to speak, and was heard. His speech has been preserved.[1] It appears to have been an extemporary speech, entirely suggested by those which he had heard from the counsel for the Crown against his release. Admitting that the House of Lords was the supreme judicature of the King, he denied that this involved an universal jurisdiction, or the power of committing any man to a perpetual and indefinite imprisonment by a general warrant, and without particular cause assigned. To give them this power, he contended, would make them absolute, and above the law. After replying to various observations of the counsel opposed to him, he solemnly said, "I desire your Lordships well to consider

[1] See Appendix VI.

what rule you make in my case, for it will be a precedent that in future ages may concern every man in England." The Attorney-General had said that the Court must either release or remand. Shaftesbury suggested a third course, discharge on bail. "I do not insist upon a release. I have been a prisoner above five months already, and come hither of necessity, having no other way to get my liberty, and therefore am very willing to tender your Lordships bail, which are in or near this Court, good as any one in England, either in their quality or estate, and I am ready to give any sum or number." The three Judges concurred in opinion that they had no jurisdiction in the case, and the fourth Judge of the Court, Mr. Justice Twisden, who was absent, had commissioned one of his colleagues to declare that his opinion was the same. Shaftesbury was sent back to the Tower. This application to the King's Bench exasperated the King. Not long after, the other three Peers were, one after the other, liberated by order of the King; but there was no relief for Shaftesbury, and his imprisonment was indeed, for a time, made more strict than before. On July 13, Stringer writes to Locke: "Our old friend is still in limbo, and now closer confined than ever. Mr. Hoskins, myself, and all but two or three that are necessary to his person, are excluded from seeing him, and for what reason we know not."[1]

[1] Some notices of the imprisoned lords occur in the correspondence of Henry Savile with his brother Lord Halifax, in the Savile Correspondence published by the Camden Society. Lord Salisbury had been released on parole for a month early in June: none of the other lords then could obtain the same favour, though the Earl of Middlesex, who was then a favourite at Court, had been most strenuous in his endeavours for Buckingham. On June 23 leave was given to Buckingham

On July 20, Henry Coventry, Secretary of State, wrote to the Constable of the Tower that Shaftesbury was "now under a more particular and strict confinement;" but that anyone with a permission under the hand of one of the Secretaries of State was to be allowed access to him.[1]

During Shaftesbury's imprisonment Charles had found the Parliament very difficult to deal with. He had asked, in his opening speech, on February 15, for money to increase the navy, and to enable him to pay debts which exceeded a million sterling. The additional excise was about to expire, and he specially requested its renewal. In a few days the Commons passed a vote for a supply of six hundred thousand pounds for the building of ships; eight hundred thousand pounds had been asked for by the King's Government.

The conquests of Louis XIV., who, on the very day of the meeting of Parliament, had opened a campaign against the Allies, caused great alarm and excitement in England, and roused the House of Commons into requiring Charles to take part with the Allies against France. In a few weeks Louis had taken Valenciennes, Cambrai,

to go to Cleveden to see his buildings in the company of the Lieutenant of the Tower, and return the next night. On the day of this journey of Buckingham's, Mr. Mallet moved in the King's Bench for a *habeas corpus* for Shaftesbury, "which we think," says Savile, "will not be much to his advantage." On the 26th of July Savile writes: "His Grace of Bucks is out for a month, my Lord Salisbury at liberty for ever, and so it is supposed his Grace will shortly be by petitioning as fully as his Lordship did." (Savile Correspondence, pp. 58, 62, 66.) It is stated in Macpherson's extracts from the Memoirs of James, that "Wharton stayed somewhat longer than the rest because he chicaned, and had no mind to own his fault in plain terms" (i. 82).

[1] Letter of Coventry in Domestic Papers of 1677, in State Paper Office.

and St. Omer, while his brother, the Duke of Orleans, defeated at Cassel the Prince of Orange, who, at the head of forty thousand men, was endeavouring to raise the siege of St. Omer. On the sixteenth of March the two Houses presented a joint address to the King, representing the alarm of the people at the growth of the French King's power and the danger for Flanders, and begging him to strengthen himself by such alliances as might secure Flanders, and quiet the fears of the English people. Charles replied vaguely and evasively, and on March 30 the Commons presented a second address, in which they pressed him quickly to make the needful alliances, and assured him that if he involved himself in war with France they would furnish him with the necessary supplies. Charles made no answer at all to this address, and he told Courtin, the French Ambassador, that he thought silence the best plan for avoiding another remonstrance; and he also expressed to him his satisfaction at the Prince of Orange's defeat by the Duke of Orleans, hoping, as he said that the Duke of York hoped also, that it would incline the Prince of Orange to peace.[1]

The Commons had by this time sent up to the Lords a bill of supply for the 600,000*l.* voted for building ships, and they were making progress with a bill for renewing the additional excise for three years, when, on the eleventh of April, the King sent a message to the House of Commons by Sir Joseph Williamson, Secretary of State, in which, referring to their yet unanswered address of March 30, he said that the only way to avert danger was to give him in time the means of making

[1] Mignet, iv. 443.

sufficient preparations, and suggested that, if for that purpose they wished to sit longer, they might adjourn now for Easter, and meet again immediately afterwards. The Commons then inserted in the Additional Excise Bill a clause enabling the King to borrow two hundred thousand pounds on the security of the Act; and they presented another address to the King on April 13, informing his Majesty of this, and stating that, if they were called together after Easter, they would be ready to reimburse the King any expenses incurred for extraordinary preparations for giving effect to their address of March 30, and would also cheerfully furnish such supplies as would prove their loyalty, and would enable the King to maintain his new alliances. Charles was very dissatisfied with the two hundred thousand pounds, and on the sixteenth he sent another message by Williamson, manifesting his discontent. He said that without six hundred thousand pounds, or credit for that sum on new funds, he could not speak or act as their addresses desired without exposing the kingdom to dangers. Sir Joseph Williamson gave the House to understand that the King proposed not a prorogation, but an adjournment, and that he did not contemplate their sitting again for any long period until October, and that when they met again after the Easter recess, he would shortly make an adjournment, and continue to adjourn them from time to time until October. The Commons immediately refused to give power for borrowing more than two hundred thousand pounds; they reiterated their advice as to alliances, and their assurance of sufficient supplies for maintaining them. The King

then took what the Commons were ready to give, and Parliament was adjourned to the twenty-first of May. During the four weeks' recess the Ministers of the Allies strained every nerve to induce Charles to join against France. The Spanish Minister is said to have received from his Government fifty thousand dollars, and the Minister of the Emperor ten thousand pistoles to distribute among members of the House of Commons. These two foreign Ministers, in a conference with leading members of the Opposition, strenuously urged them to give Charles no money unless he joined the Allies; and if he did so, to give him twelve hundred thousand pounds, and they offered from their Governments a subsidy, indemnification of all losses, and Calais and Dunkirk if taken, if England would join with the Allies.[1] When Parliament met again on the twenty-first of May, the King pressed for further supplies in the same tone as before the recess: he could not act as they desired, unless they gave him sufficient money beforehand. "I tell you plainly," he said, "it shall be your fault, and not mine, if our securities be not sufficiently provided for." The Commons replied to this language with increased boldness. On May 26, they now presented an address to the King, refusing the supply asked for until the alliances which they required were made, and specially desiring the King to make a league offensive and defensive with the States-General against the growth and power of the French King, and for the preservation of the Spanish Netherlands. They concluded a long address by begging Charles to take

[1] Mignet, iv. 473.

such resolutions as would render it impossible for any neighbouring Prince to rob the English people of their happiness, and by assuring him that they would hold themselves obliged to give him all necessary supplies. The King's answer on the instant to this address was that it was long and important, and that he would with convenient speed send an answer. Two days after, on the twenty-eighth of May, the King sent for the Commons, and delivered an answer full of prerogative and of reproof. The power of determining war or peace rested, he said, with the King, and it was not for the Commons to dictate alliances to him. If he was to submit, he said, to such dictation, no Prince or State would believe that the sovereignty of England was in the Crown, and he could not consider himself as representing abroad more than the empty sound of a King. He signified his pleasure that they should adjourn to the sixteenth of July, and he said that, if he intended them then to sit, he would give notice by proclamation. The Lord Chancellor said distinctly in the Lords that the King did not intend Parliament to meet again for business until the winter. Parliament did not meet again till the end of January.

A few days before this adjournment, Charles had informed Courtin of his intention quickly to adjourn the Parliament, and had added that, desiring to do nothing contrary to the interests of the King of France, he wished that the Parliament should not sit again till the spring of 1678, but that he wanted money.[1] He wished Courtin to go over to Paris to represent this to

[1] Mignet, iv. 476.

Louis, and to beg Louis to confide to him the conditions of peace which he demanded. Louis refused permission to Courtin, who was soon to be replaced by Barillon, to come over at the moment, but he authorized Courtin to offer Charles fifty thousand pounds in addition to the hundred thousand which he was already to receive in the year, if Charles would agree to adjourn Parliament until April 1678. Charles told Courtin, when he offered him the additional fifty thousand pounds, that he could not do with less than a hundred thousand additional, during the year. Louis then authorized Courtin to go as far as eight hundred thousand francs, about 32,000*l.*, in addition to what he had already offered; but he was enjoined to require a distinct promise from Charles not to call Parliament together before May 25, 1678. Charles still stood out for the additional hundred thousand pounds. If he received a promise of that, he said he would adjourn the Parliament from July 16, the day to which it stood adjourned, to December, and then again till the tenth of April, 1678. On July 10, Courtin had not received his final orders from the French King, and Charles then by proclamation adjourned the Parliament to December 3. Louis then, still haggling, authorized Courtin to offer one hundred and seventy-four thousand pounds in all. Danby, who was in the secret of this disgraceful negotiation, and who thus acted as Shaftesbury never did, insisted on more; and Courtin agreed with Danby for two millions of francs in addition to the existing subsidy of a hundred thousand pounds, making in all one hundred and eighty thousand pounds. Charles now promised,

when the third of December arrived, to adjourn the Parliament till the beginning of May. He said he would tell the Allies that nothing would induce him to enter into the war, and that he had resolved, in order to apply himself entirely to the mediation, not to re-assemble Parliament until the next spring. Danby was dissatisfied with the two millions of francs, and continued to claim twenty-four thousand pounds more.[1]

In the course of the month of September, Barillon, who had in August replaced Courtin as French Ambassador, learnt by public rumour, and with surprise and annoyance, that the Prince of Orange was coming over to England to visit the King, and on the ninth of October the Prince arrived in England. He came, in fact, by the suggestion of Charles, who had sent Laurence Hyde to him to express his desire to come to an understanding with him about the conditions of peace, and to leave it to his choice to determine whether he would send over some one in his confidence or come himself to England. The Prince came with the desire of seeing Mary, the Duke of York's daughter, and judging whether she would suit him as a wife. This visit to England quickly resulted in the marriage of William of Orange with the Princess Mary. The marriage was a great blow to the French King. When the Prince of Orange first made his proposal to the Duke of York, the latter told Barillon of it, and instructed him to inform Louis that he could not entertain the proposal till the negotiations for peace

[1] Mignet, iv. 477—501. Dalrymple, ii. 112—116. Lord Danby's Letters, p. 4.

were more advanced. Two days after, he spoke even more strongly to Barillon, and said that he would not take the marriage into consideration until peace was concluded, and that he would do nothing except in concert with Louis, and under his advice. But in two days more all was changed. Charles told Barillon that the marriage was resolved upon, and the Duke of York confirmed the news. The Duke pleaded the necessity of obeying his brother, and begged Barillon to assure Louis of his unaltered and unalterable attachment. Louis was angry, but powerless to prevent the marriage. It was useless for him to remonstrate. He instructed Barillon to offer his congratulations to Charles and James, and to express his hope that the Prince of Orange would enter into their political views. The States-General approved the marriage, and it was speedily solemnized, on November 5, 1678, in less than a month after the Prince of Orange's arrival in England.[1]

It is time to return to Shaftesbury in the Tower. Shortly before the marriage of the Prince of Orange and the Princess Mary, another proclamation had adjourned Parliament from the third of December to the fourth of April, again deferring the prisoner's hope of release through the re-assembling of Parliament. We left Shaftesbury on July 13, suffering from increased severity of restraint in consequence of his endeavour to obtain his discharge through the Court of King's Bench. In August Stringer reports a relaxation of strictness, and describes him better in health, eager for good maps of the country which war

[1] Mignet, iv. 503—512.

had visited and might visit again, inquiring also for books for teaching Latin to a beginner, doubtless his grandson, now six years old, on whom his affections and dearest hopes rested, and amusing himself in captivity with books sent to him by Locke from France.

"THANET HOUSE, *August* 16, 1677.

"DEAR SIR,—I thank God our friends at the Tower and here are in very good health; they want nothing but liberty, and that is not like to be had until the next prorogation. His Lordship desires you will get him the best maps of Champaigne and Loraigne, Luxemburgh, and the country between the river Sambre and Luxemburgh, because the war in all probability will come there again; and likewise he desires you will inquire and let him know, what books the Dauphin was first initiated in to learn Latin. He apprehends there are some books both Latin and French, either Janua linguarums or Colloquies, and also he desires to know what grammars; this he conceives may be best learnt from those two printers that printed the Dauphin's books. Having your order, I opened the box of things, and have furnished him with those books you sent over. He has engaged to be very careful in restoring them; and in order thereunto hath got a box to keep them in apart from all other things; and it proves a very good entertainment, in this time of close confinement when his friends are not permitted to see him without particular order under the hands of one of the Secretaries, who are generally very kind, and deny none that ask for leave, as I do hear of. Amongst those books, his Lordship finds a printed paper of all the general officers of the King of France for the year 1675: if there are any such papers printed for the years 1676

and 1677, he desires you will give yourself the trouble of sending them unto him.

"Your most affectionate faithful servant,

"T. STRINGER."[1]

Near the end of September, the following letter from Secretary Coventry, Shaftesbury's brother-in-law, to his brother Secretary of State, Sir Joseph Williamson, giving from the King a general discretionary power as to permitting repetition of friends' visits to Shaftesbury, shows a further disposition to relax severity:—

"NEWMARKET, *September* 26, 1677.

"SIR,—I received since my coming hither a letter of Sir Paul Neale's, that sayeth you desire particular directions from the King to let him see the Earl of Shaftesbury more than once. I have asked his Majesty upon that point, and he saith you may during his absence give leave to anybody you shall think reasonable to see him, and the leave as often renewed as you shall likewise in your judgment think fit. I need not write you news from hence, for you know what we are doing as well as we here. Sir Robert Carr hath lost one of his eight horse-matches, and this morning we killed with the King's beagles three hares. All campaigns prove not so bloody. I am, very concernedly,

"Sir,

"Your most humble and obedient servant,

"HENRY COVENTRY."[2]

[1] This letter and some of the other extracts which I have given from Stringer's correspondence with Locke are printed in Lord King's Life of Locke. I have made several corrections in printing from the originals which I have read at Lord Lovelace's.

[2] This letter is among the Domestic Papers in the State Paper Office; and I had previously found a copy at Longleat. Henry Coventry was a great sportsman, and a genial man. Sir Nicholas Armourer, one of Williamson's correspondents of 1673, writes of him:

Stringer wrote to Locke on October 5, 1677, a few days before the arrival of the Prince of Orange in England :—

"THANET HOUSE, *October* 5, 1677.

"I will take care to inquire after the maps you have sent by Sir Thomas Armstrong's daughter, for they will be of great use unto my Lord, his chief divertisement being in books, maps, and papers.

"Dr. Cudworth's book is not yet printed; it hath been printing these three or four years, and it was at one time feared it would not come forth at all, but now it is thought it may be finished about half a year hence. The reason of the delay, it is said, doth proceed from the Doctor's great alterations, even in the printed sheets, that they are forced to give them several reprintings.[1]

"My Lord of Shaftesbury hath had a fit of the gout lately, but otherwise he is better in his health, fresher in his complexion, and fatter in his body than ever I saw him in my life, which I do impute to his temperance and well ordering of himself where he is. My Lady and the rest of the family, I thank God, are exceeding well, and John Whelock is become a principal officer about my Lord. My Lord Mohun hath lately deceased of his wound, to the great affliction of all his friends."

It is probable that the following fragments of petitions to the King and the Duke of York were penned by Shaftesbury after the issuing of the proclamation

have spent all the buck-hunting season with your brother-secretary Coventry at his lodge in Enfield Chase, where he has good horses, good dogs, and good cheer, and rides hard when his health will permit him." (Domestic Papers in State Paper Office, Sept. 23, 1673.) See also Evelyn's account of Coventry's lodge in Enfield Chase, which he visited with Arlington, June 2, 1676. (Diary, ii. 113.)

[1] The "Intellectual System," published in the year following.

adjourning Parliament to the third of April, 1678. The circular letter for Peers, which follows them, was clearly written after the publication of that proclamation. It appears to have been intended to enclose a petition, which Shaftesbury had prepared for Parliament, while he expected it to meet in December. There is reason to believe that none of these three documents was completed and sent to its destination.[1] They were found in 1704, after Locke's death, by his executor, Mr. King, afterwards Lord Chancellor King, among Locke's papers, together with the fragment of a Memoir of Shaftesbury; and Mr. King sent them immediately, with the fragment of Memoir, to the third Earl, Shaftesbury's grandson, the author of the "Characteristics."[2] They are now among the papers at St. Giles's.

The letter to the King contains a very important statement from Shaftesbury as to his conduct in helping to bring about the Restoration. Writing to one who knew the truth, he says that he betrayed no one, had no secret correspondence with the King, and made no bargain for himself.

To the King.

"SIR,—The Almighty God, the King of kings, permitted Job to dispute with him, and to order his cause

[1] When Shaftesbury had presented a petition to the King, after Parliament met in January of next year, the King said in a message to the House of Lords on February 20, that he had then received three petitions from him. There were two petitions to the King from Shaftesbury before he appealed to the King's Bench, so that probably the present projected petitioning letter did not reach the King.

[2] See Mr. King's letter to the third Earl of Shaftesbury in Locke's Works, vol. x. p. 322.

before him: give me leave, therefore, great Sir, to lay my case before your Majesty, and to plead not only my innocence, but my merits towards your Majesty; for 'my integrity will I hold fast, and will not let go: my heart shall not reproach me so long as I live.'

"I had the honour to have a principal hand in your Restoration; neither did I act in it but on a principle of piety and honour. I never betrayed, as your Majesty knows, the party or councils I was of. I kept no correspondence with, nor I made no secret addresses to, your Majesty; neither did I endeavour or obtain any private terms or articles for myself, or reward for what I had or should do. In whatever I did towards the service of your Majesty, I was solely acted by the sense of that duty I owed to God, the English nation, and your Majesty's just right and title. I saw the hand of Providence, that had led us through various forms of government, and had given power into the hands of several sorts of men; but He had given none of them a heart to use it as they should. They all fell to the prey, sought not the good or settlement of the nation, endeavoured only the enlargements and continuance of their own authority, and grasped at those very powers they had complained of so much, and for which so bloody and so fatal a war had been raised and continued in the bowels of the nation. I observed the leaders of the great parties of religion, both laity and clergy, ready and forward to deliver up the rights and liberties of the people, and to introduce an absolute dominion; so that the tyranny might be established in the hands of those that favoured their way, and with whom they might have hopes to divide the present spoil; having no eye to posterity, or thoughts of future things. One of the last scenes of this confusion was General Lambert's seizing of the government in a morning by force of arms,

turning out the Parliament and their Council of State, and in their room erecting a Committee of Safety. The news of this gives a great surprise to General Monk, who commands the army in Scotland."

It is important to note in the next letter to the Duke of York that Shaftesbury mentions that he did not expect the Duke of York, at the time of his imprisonment, to be his enemy. This refers of course to the negotiation then proceeding, under the French King's auspices, between the Duke and leaders of the Opposition.[1]

To the Duke of York.

"SIR,—I humbly confess I never thought my person or my principles acceptable to your Royal Highness; but, at that juncture of time and occasion when I was committed, I had no reason to expect you should be my severe enemy. Reputation is the greatest concern of great dealers in the world; great princes are the greatest dealers; no reputation more their interest than to be thought merciful, relievers of the distressed, and maintainers of the ancient laws and rights of their country: this I ever wish may attend your Royal Highness, and that I may be one instance of it."

To the Lord ——.

"MY LORD,—I had prepared this for your meeting in December; but that being adjourned to the fourth of April, an age to an old infirm man, especially shut up in a winter's prison, forgive me if I say you owe yourself and your posterity, as well as me, the endeavouring to remove so severe a precedent on one of your mem-

[1] See p. 228.

bers; such as I may truly say is the first of the kind, and I pray heartily may be the last. Your intercession to his Majesty, if it be general, is not likely to be refused; if you are single, yet you will have done honourably, and what I should have done for you."[1]

The marriage of the Prince of Orange with the Princess Mary had been followed by a really vigorous effort of Charles to bring Louis to terms of peace. Having come to an agreement with the Prince of Orange, Charles proposed terms to Louis, sending them by a special envoy, the Earl of Feversham.[2] The great object of the Prince of Orange, who now guided Charles and had made concessions at Charles's instance, was to provide in Spanish Flanders an effectual barrier for Holland against France. It was proposed that Louis should keep Franche Comté, with Aire, St. Omer, and Cambrai, which he had conquered in this war: but he was asked to restore Maestricht to Holland, and

[1] At the end of this circular letter to the Peers Shaftesbury had written these additional words, and he afterwards scratched the pen through them: "But if your Lordship shall altogether hold your peace at this time, *vide* the Book of Esther, ch. iv. verses 13 and 14." The verses referred to are as follows:—"Then Mordecai commanded to answer Esther, Think not with thyself that thou shalt escape in the king's house, more than all the Jews. For if thou altogether holdest thy peace at this time, then shall there enlargement and deliverance arise to the Jews from another place; but thou and thy father's house shall be destroyed: and who knoweth whether thou art come to the kingdom for such a time as this?" The drafts of these three documents, which are at St. Giles's, are in Shaftesbury's writing and not in Locke's, as is stated by Martyn. I have been able to make a few small corrections in printing them from the originals at St. Giles's.

[2] The Earl of Feversham was a Frenchman by birth, naturalized as an Englishman, and he had been created Lord Duras. He is often called Lord Duras at the time of this mission; but he became Earl of Feversham in this year, 1677, on the death of his father-in-law, who had been in April 1676 created Earl of Feversham with appointment of the succession, in the absence of male issue, to Lord Duras, who had married his eldest daughter.

Charleroi, Ath, Tournai, Oudenarde, Courtrai, Valenciennes, and Condé to Spain, to demolish the fortifications of Philipsbourg, and restore Lorraine to its former ruler. Feversham was instructed to press these terms strongly on Louis. Louis, he was told to say, had always declared that he did not desire the conquest of Flanders, and the English Parliament was bent on its preservation. Charles would be obliged to meet his Parliament in April, and Parliament, which had compelled him to a separate peace with Holland, had now the same power over him as then in respect of revenue, and might ruin his friendship with France, if France would not agree to these terms. Louis peremptorily refused the offered terms, but he suggested a suspension of hostilities in the Netherlands for a year. Later Louis proposed a general truce. This last proposal pleased Charles, but he asked Louis to stay all hostilities in the Netherlands at once for two months, to give time for negotiation for the general truce at Madrid and Vienna. Louis refused to agree to this condition. Danby, always unfriendly to France, now proceeded with vigour. The Duke of York entered warmly into the new vigorous policy against France. He told Barillon, with mournful face, that the King could not do otherwise, and that if he did not act boldly for the preservation of Flanders, all his subjects, with the single exception of himself, would rebel.[1] Parliament, which had been adjourned by proclamation to the fourth of April, was convoked for the fifteenth of January. Louis, uneasy, now told Barillon to offer Charles two hundred

[1] Mignet, iv. 520.

thousand pounds, and even more, if he would delay the meeting of Parliament, and to offer Danby a large sum by way of bribe, but to represent firmly that he would never agree to the terms proposed through Lord Feversham. These offers were ineffectual.[1] Charles now concluded a treaty with Holland, signed on December 31, by which the two nations were bound to endeavour to obtain peace on the terms carried to Louis by Lord Feversham. It was provided that the King of England should endeavour to obtain a three months' truce from the King of France for time to obtain the consent of the King of Spain, and the King of England undertook to compel Spain to agree, if unwilling. England and Holland bound themselves to join their forces for acting in concert, if France and Spain refused to adhere to the terms agreed upon. And not only did Charles make this treaty with Holland, but he immediately prepared to send twelve thousand men to Ostend, ordered the equipment of thirty men-of-war, and recalled from the French service the English troops, which hitherto, in spite of Parliamentary remonstrances, and in indecent inconsistency with his position as mediator, he had, in return for and in hope of French pecuniary aids, suffered to remain with Louis. Charles told Barillon that all these measures were necessary in order to prevent his being entirely discredited with his subjects, and that if he had waited till Parliament called for the measures, he would have had no merit: he was determined, he said, "to show his Parliament that he would neglect nothing for

[1] Mignet, iv. 522.

the safety of Flanders, and that he would make himself ready for war, if he did not succeed in bringing about peace."[1] Parliament met on January 15, and was then adjourned to the twenty-eighth, on which day it at last assembled for business.

And now, a month after Parliament assembled on January 28, Shaftesbury at last, but yet not without much opposition and difficulty, obtained his release from the Tower on February 26, 1678. A petition from him to the House of Lords was presented by Lord Halifax on February 20. On consideration of Shaftesbury's petition, the Lord Chancellor informed the Lords that the King had received a third petition from Lord Shaftesbury, more submissive than the two preceding ones, but understanding that he had endeavoured to free himself from their censure by appealing to the King's Bench during the late adjournment, he did not think fit to signify his pleasure until the House had taken that matter into consideration. The Lords resolved not to address the King at present for Shaftesbury's release; and a debate on his appeal to the King's Bench was adjourned to the next day, the twenty-first. On that day Lord Holles presented another petition, claiming to be heard in his defence on new matter, admitting that he might have done wrong in ignorance and under the pressure of grief in appealing to the King's Bench, and declaring his desire to cast himself at the Lords' feet, to beg forgiveness for any offence. After debate, the Lords resolved that it was a breach of privilege of their

[1] Mignet, iv. 529.

House for any Peer...committed by them to bring a *habeas corpus* in an inferior Court to free himself from imprisonment during the session of Parliament.[1]

The Lords, after passing this resolution, granted Shaftesbury's request for a hearing; and he was ordered to be brought to the bar of the House of Lords on February 25. The Lord Chancellor having addressed him, Shaftesbury then spoke as follows:—

"MY LORDS, — I have presumed to offer two petitions to this honourable House. The first your Lordship mentions, I do again here personally renew, humbly desiring that I may be admitted to make that submission and acknowledgment your Lordships were pleased to order; and that after a twelvemonth's close imprisonment, to a man of my age and infirmities, your Lordships would pardon the folly or unadvisedness of any of my words or actions. And as to my second petition, I most humbly thank your Lordships for acquainting me with your resolution and declaration in that point; and though liberty be in itself very desirable, and as my physician (a very learned man) thought absolutely necessary to the preservation

[1] Lord Salisbury, one of his early colleagues in imprisonment, wrote the following to Shaftesbury on occasion of this debate:—

"*February* 20, 1678.

"MY LORD,—If I had known your intention to petition the House, I would have stayed in town, to have done you what service I could. I have signed and sealed the enclosed, with a design my Lord Halifax should have it, though I never gave my proxy before. I shall be extremely glad to hear you have a happy success in this business; being really, "My Lord,

"Your faithful humble servant,

"SALISBURY."

The debates of February 20 and 21 were long and eager. "Lord Shaftesbury's petitions," writes the Duke of York to Laurence Hyde, February 22, 1678, "have made us eat late dinners this week." (Clarendon and Rochester Correspondence, i. 8.)

of my life, yet I do profess to your Lordships, upon my honour, that I would have perished, rather than have brought my *habeas corpus*, had I then apprehended or been informed that it had been a breach of the privilege of this honourable House. It is my duty, it is my interest, to support your privileges. I shall never oppose them. My Lords, I do fully acquiesce in the resolution and declaration of this honourable House: I go not about to justify myself, but cast myself at your Lordships' feet; acknowledge my error, and humbly beg your pardon, not only for having brought my *habeas corpus*, but for all other my words and actions, that were in pursuance thereof and proceeding from the same error and mistake."[1]

After this, Shaftesbury made submission in the following words, prescribed by the House:—"I do acknowledge that my endeavouring to maintain that the Parliament is dissolved was an ill-advised action, for which I humbly beg the pardon of the King's Majesty and of this most honourable House; and I do also acknowledge that my bringing of a *habeas corpus* in the King's Bench during this session was a high violation of your Lordships' privileges, and a great aggravation of my former offence, for which I likewise most humbly beg pardon of this most honourable House."

This was complete submission. Shaftesbury had been a twelvemonth a prisoner, and there was no hope or

[1] This speech is given from the Rolls of the House of Lords, which I have inspected. In consequence of the vote of the Lords of November 13, 1680, there is no trace in the printed Journals of any of the proceedings relating to the imprisonment of Shaftesbury and the three other Peers: but all remains legible in the original manuscript rolls. This speech is imperfectly given in "Rawleigh Redivivus."

help for him in this struggle with absolute power tyrannically exercised, but to submit. Within three years there was another Parliament of short life, in which Shaftesbury had the ascendant; and the arbitrary injustice, of which he had been the victim, was then branded by the House of Lords with a severe and just censure, and all proceedings relative to the imprisonment of Shaftesbury and the other three Peers were ordered to be erased from the journals. The House of Lords resolved on November 13, 1680—

"Whereas the Duke of Buckingham, the Earls of Salisbury and Shaftesbury, and Lord Wharton, were, contrary to the freedom of Parliament, committed to prison by order of the Lords' House of the fifteenth of February, 1676-7, whereupon followed a series of many unprecedented proceedings, derogatory to the authority of Parliament, and of evil example and precedent to posterity: for vacating, making void, and destroying such precedents for ever, and in vindication of the authority and freedom of Parliament; upon complaint thereof made, and due consideration and debate thereof by the Lords spiritual and temporal in Parliament assembled, it is ordered, decreed, and adjudged, that the said order and proceedings concerning the said Lords were unparliamentary from the beginning, and in the whole progress thereof; and therefore are all ordered to be vacated (by virtue of this judgment) in the journal books of this House; that the same, or any of them, may never be drawn into precedent for the future."[1]

[1] As has been said in the preceding note all the minutes of these proceedings are legible in the original rolls of the House of Lords. Numerous extracts are given by Hatsell in the Appendix to vol. ii. of his "Precedents;" and there is a very good account of the proceedings in "Rawleigh Redivivus."

There is preserved in the State Paper Office a long list of those who had visited Shaftesbury in the Tower, from July 26, 1677, to February 18, 1678. Besides private friends, relatives, and retainers, the list contains the names of Sir Francis Rolles, Lord Halifax, Lord Holles, Lord Russell, Lord Delamere, Lord Chief Justice North, Lord North and Grey, Sir Thomas Chicheley, Lord Strangford, Lord Cavendish, Lord Clifford, Sir William Murray, Sir John Coventry, Sir Thomas Littleton, and Mr. Powle.

The two following letters written from the Tower near the end of Shaftesbury's imprisonment, which I have found among the papers at St. Giles's, are of private interest. The first is a set of minute instructions of Shaftesbury to his bailiff:—

"LONDON, *January* 1678.

"The letter wherein this is enclosed being of matter of more moment and to keep by you, I thought best to put what follows in this loose note. First, pray remember to dismiss Simon Osbeston from my service, he being a charge and of no use to me, and what service he hath formerly done you well know, therefore I owe him nothing but a fair parting and no prejudice.

"Pray charge Parkerly he looks to my ponds and hedges, as I have directed him in my letter to Mr. Highmore by this week's foot-post: especially let care be taken of the grate by the dog kennel that secures all my fish in the river by the house; and pray see to my letter to Mr. Highmore about Romford orchard. There is another special affair you must be careful to do exactly, which is, that, I having sold a gelding to Mr. May of my own breed, which I called Wainsford, and

was the gelding Baker kept with a horse called Tate, which gelding he hath now matched as a gelding, but being found to have one stone, they refuse to match with him and say he is no gelding, I am therefore to get a proof for Mr. May that he was really gelt. I find by my book that old Perkins of Hinton Martine gelt him, either about Michaelmas 1674 or Ladyday 1675. I am told old Perkins is dead, but his son, George Prout, or some of my carters or the labourers about the house, may remember it. Pray get me a certificate under as many of their hands or marks as you can, for 'tis a matter of moment.

"I have sent you here enclosed such a note as I desire Mr. Swayne may be got to set his hand and seal to, which is the only thing can make him and I friends: if you can get him to sign it, you should get it engrossed in parchment and dated anew according to the time. You must remember to make up the account with Mr. Dibbons, and pay him the remainder of Mr. Bennet's interest money according to the note I gave you.

"SHAFTESBURY."

The next is a grateful letter from his brother George, who appears to have been unfortunate in his affairs, and to have been kindly and generously treated by Shaftesbury.

"MY LORD,—I do acknowledge your great kindness and gift in the interest forgiven, and shall ever repay you with all service in my power to perform. Your Lordship doth add much to that in your kindness to my son since, who I hope will have not only a thankful but a careful mind of all your Lordship's commands. My Lord, I shall take care of his suit with ——,[1] and

[1] Name illegible.

free him from that debt, and for his being bound for me he can tell your Lordship I have been always careful to keep him free, for that he neither hath nor shall be in any bond with me or for me. My Lord, should I never have opportunity to do you any valuable service, yet the most inconsiderable person that is really faithful from the true principles of gratitude may be a satisfaction to the greatest of persons, if not for use yet variety, so shall you always find,

"Your very much obliged humble
"servant and brother,
"G. COOPER.

"*January* 22, 1677-8."

Such letters as this unexpectedly prove private virtues of one whom party fury and the virulence of bad men have calumniated to posterity. We have already seen Shaftesbury as an affectionate and tender husband, a good father, a devoted grandfather, and a warm and generous friend; and the present letter, not written for publicity, and never till now printed, reveals an unprosperous brother's grateful affection for one whom the world has been taught to regard as nothing but a clever, ill-conditioned, selfish, and even wicked man.

CHAPTER XVI.

1678—1679.

Parliamentary proceedings about the war from opening of Parliament, January 28—Disputes between Charles and House of Commons—Ruvigny's son sent by Louis to treat with Lord Russell and his friends—Charles sends Ruvigny to Louis to get his consent to terms of peace and to beg for 600,000*l.*—Louis refuses, and Charles sends troops to Ostend—Poll Bill passed giving 600,000*l.* for war—The Dutch try to make a separate peace—Danby writes by the King's order to Montagu, Ambassador in Paris, telling him to ask Louis for a yearly subsidy of six million francs for three years—Refusal of Louis—Charles tries to make a quadruple alliance against France—The Dutch agree with France—Charles quarrels with House of Commons and adjourns Parliament from May 13 to May 23—Secret treaty between Charles and Louis of May 17, by which Charles was to receive six million francs, in the event of peace, in twelve months, and agreed to prorogue Parliament with a view to a dissolution—Agreement of Dutch with Louis interrupted by a new pretension of France in favour of Sweden—France gives in—Peace of Nimeguen—Shaftesbury's fear of French power—Dissatisfaction with the Prince of Orange's marriage and with the peace of Nimeguen—Distrust of Charles—Communications of Ruvigny and Barillon with Russell, Shaftesbury, and others—Shaftesbury's criticism of the peace of Nimeguen—Overture of Duke of York to Shaftesbury and his friends to co-operate for Danby's removal and a dissolution—False statement of Duke of York in his Memoirs representing that Shaftesbury's friends made an overture to him for union against Danby, which he refused—Protests alone against the Bishops taking part in the trial of Earl of Pembroke for murder—The Popish Plot—Dryden's fair judgment of it—Dryden's unjust charge against Shaftesbury of inventing details—Earl Russell's unfair contrast of Shaftesbury with William Lord Russell, and unfounded imputation of unscrupulousness—Titus Oates's story—Coleman's letters—Sir Edmund Bury Godfrey's disappearance and death—Meeting of Parliament, October 21—Parliamentary proceedings about the Plot—Lord Russell's motion for removal of the Duke of York from the King's person and Councils—The Duke retires from the Council—Act for excluding Roman Catholics from Parliament—The Queen accused of

having consented to the murder of the King—Montagu's accusation against Lord Danby, and production of Danby's letters desiring a subsidy from the King of France—Danby's impeachment—The Lords refuse to commit him—Prorogation and dissolution of the Parliament—Danby negotiates with leaders of Opposition—Charles tries to conciliate Louis XIV. and asks in vain for four million francs—Lady Russell dining at Lord Shaftesbury's—The Duke of York leaves England—Shaftesbury's account of affairs in England on meeting of Parliament, March 6, 1679, and sketches of Danby, Duchess of Portsmouth, and Duke of York.

SHAFTESBURY was released from the Tower on February 26, 1678. The next day he was in his place in the House of Lords, and on that day a bill to prevent the growth of Popery was read for the first time in the House of Lords.

It is necessary to relate what had passed in Parliament as to the war since its meeting a month before; and the narrative will for convenience be continued, before I return to Shaftesbury, until the peace between France and Holland made at Nimeguen in August.

Charles's speech to Parliament, when it assembled on January 28, had been one of decided antagonism to France. He told the two Houses that he had now complied with their desires, made an alliance with Holland for the preservation of Flanders, and recalled the English troops from France. He said that it was necessary to have a fleet of ninety vessels of war, well equipped, and an army of thirty or forty thousand men; and he urged that the war which was in prospect must not be carried on with half-measures, and begged for a plentiful supply, "whereon," he added, "depends not only the honour but, for aught I know, the being of an English nation." The reply of the Commons to the King's speech troubled and embarrassed him. The

Opposition distrusted his sincerity, and feared that the forces asked for were really designed not against France, but against his own subjects. Thanking the King for the marriage of the Princess Mary with the Prince of Orange, they required of him to make no treaty with France except on the condition of reducing its territory to the limits of the Pyrenean Treaty of 1659, to make concurrence in such a stipulation a condition in all alliances and treaties with other nations for prosecuting war against France, and to contract with the Confederates that neither England nor any one of them should have any commerce or trade with France during the war. They added that "when your Majesty shall please to impart such alliances and confederations to us in Parliament, we shall, upon all occasions, give your Majesty such ready assistances and supports as may, by the blessing of God, bring the said war to a happy conclusion." The Commons, distrusting the King, purposely made these conditions, which they knew he would not accept. The King was at this moment in earnest, but no one can say that distrust of him was unmerited. The Opposition in the Commons were urged to thwart the King by the agents of Louis XIV., who, pursuing his astute policy, now ordered efforts to be made to persuade the leaders of the Opposition that he had no design of enslaving England and no interest in doing so, and to urge them to throw difficulties in the way of giving Charles the money he asked for. Louis had in January sent over to England the son of the Marquis of Ruvigny, for the express purpose of negotiating with the leaders

of the Opposition, among whom Lord Russell, whose wife was Ruvigny's relative, held a chief place.[1] Charles, through Montagu, his Ambassador at Paris, became aware of the object of Ruvigny's visit to London. The instructions of Louis to Barillon at this time were to make use of Charles against his Parliament if Charles were disposed to do as France wished, and of Parliament against Charles if he resolved on mischief for France. Barillon was assured by Charles, on the eve of the meeting of Parliament, that he did not intend war; but Barillon did not trust him, and he and Ruvigny had interviews with Lord Russell, Lord Holles, and Buckingham. Shaftesbury was at this time a prisoner in the Tower. Russell and Holles were above receiving French money for themselves, or acting as middlemen to bribe others; Buckingham was not only ready to take, but eager to solicit, reward; and several members of the Opposition in Parliament received sums of money from Barillon. On the day on which Charles received the address of the Commons, he said to Barillon in the evening, "I think they have lost their senses, and they must have had money from you to make such extravagant demands." Barillon reports that he replied, "I do not think that money would have been well spent to procure such an address."[2] Charles replied to the Commons' address on February 4, in a very high tone, resenting the conditions which had been required of him as an encroachment on his pre-

[1] Mignet, iv. 533; Dalrymple, ii. 130.
[2] Barillon, January 30, 1678, in Mignet, iv. 533.

rogative. The Commons voted on February 18, the raising of a million sterling "for enabling his Majesty to enter into actual war against the French King." And now Charles wavered, and made an attempt to induce Louis to come to terms; for this purpose he begged Ruvigny to go to Louis, and to propose from him, if Louis would accept his terms of peace, an alliance with France, on condition of a gift of six hundred thousand pounds from Louis to save Charles from ruin. Ruvigny left England in the end of February on this mission from Charles, and found Louis, who had just opened a new campaign, engaged in the siege of Ghent. Louis refused Charles's overture, and in a few days he became master of Ghent and of Yprès. Now Charles immediately despatched troops to Ostend; the Duke of Monmouth and Lord Feversham accompanied them; the Duke of York, who was to have the chief command, was quickly to follow. The Commons, after a long debate on grievances and evil counsellors, resolved on an address to the King, praying him to declare war immediately against France, recall his ambassadors from Paris and from Nimeguen, and send away the French Ambassador. The address was sent up to the Lords for their concurrence; the Lords made some amendments, one of which was to substitute for "immediately" the words "with all the expedition that can possibly consist with the safety of your Majesty's affairs." The Commons disagreed with the amendments, and, the two Houses not being able to agree, this address was not presented.

[1] Mignet, iv. 536—539.

On March 20, the King gave his consent to a poll-bill, which was to give him six hundred thousand pounds of the million promised; the money was strictly appropriated to the war, and the bill contained a clause prohibiting the importation of French goods. There was a short adjournment, by request of the Commons to the King, for Easter, from March 26 to April 11; but the Lords continued to sit. On April 15, the King adjourned both Houses to the twenty-ninth. The reason given by the King for this adjournment was that the Dutch Ambassador was waiting for full instructions, and that "the affairs concerning the alliances were not yet so ripe or fit to be imparted to both Houses as it was expected they might have been upon the last adjournment." The Dutch, indeed, were now endeavouring to make a separate peace with Louis, who had welcomed their overtures. The States-General had refused to ratify the treaty of offensive and defensive alliance negotiated on the eve of the meeting of Parliament, and a proposal for a simply defensive alliance had been substituted. But again Charles, after Louis's refusal of the terms of peace sent by Lord Feversham, had been already in secret negotiation with Louis and his Ambassador for a large annual subsidy. When Louis rejected the overture for terms of peace from Charles, sent through the younger Ruvigny, in February, he had offered Charles all the money and aid he might need for re-establishing his authority when peace was concluded. He had quickly followed up this general offer by instructing Barillon to propose a gift of six million

francs to be paid in three years, beginning immediately after the ratification of peace.[1] But this was not sufficient for Charles's needs; and on the twenty-fifth of March, four days after Charles had given his assent to the Poll-Bill granting him six hundred thousand pounds, and on the eve of the adjournment of the House of Commons for Easter, Danby wrote a memorable letter, which soon afterwards brought him infinite trouble, to Ralph Montagu, the Ambassador at Paris, instructing him to press for six million francs a year during three years: and to this letter there was a postscript by Charles, "This letter is writ by my order, C. R." When Charles ordered this letter, he knew that the dispositions of the Allies to peace were more favourable, and that the Emperor, Spain, and the Prince of Orange had all waived the cession of Tournai and Valenciennes, confining themselves to insisting on the restoration of the other five towns, Ath, Charleroi, Oudenarde, Courtrai, and Condé, and of his recent conquests, St. Guislain, Ghent, and Ypres. Charles hastened to turn this knowledge to profit, and Montagu was instructed to sound Louis as to these terms, and to offer the assistance of Charles to bring about peace on such conditions, and then, if Louis agreed, to ask for six million francs a year for three years, as Charles's reward. Louis refused, saying that the offer came too late: he was determined to retain Ypres, one of the recent conquests, though he might restore St. Guislain and Ghent. Charles, nettled by this refusal, now turned his thoughts again to war.

[1] Mignet, iv. 571.

He proposed to the Ministers of Holland, the Emperor, and Spain, the conclusion, of a quadruple alliance, which he would follow up by a declaration of war. The Ministers of the Emperor and of Spain eagerly accepted the proposal: but the Dutch Minister had no powers or instructions, and could not act without them. It was in order to wait for instructions for this purpose, that Charles adjourned the Parliament from the fifteenth of April to the twenty-ninth. When that day came, the States-General had voted to accept the terms offered by France for a separate peace. On the House's meeting on the twenty-ninth, the Lord Chancellor spoke for the King, and having stated all the difficulties with Holland, but not of course mentioning Charles's trafficking with Louis, asked for the advice of the two Houses to be given as speedily as possible. The Commons resolved on May 4 that the offensive and defensive treaty with Holland, negotiated in the end of December, and not ratified, was neither pursuant to the addresses of the House nor consistent with the good and safety of the kingdom: and they resolved, on the same day, that the King should be advised to enter into the present alliances with the Emperor and the King of Spain and Holland for the vigorous carrying on of war against France and for the good and safety of England, adding their desire that effectual endeavours be used with Holland, and that it be agreed by all the Confederates to prohibit French commerce, and that no truce or peace be made with the French King by the King of England or by any of the Confederates without general consent

first obtained. It was resolved to present these votes to the King as votes, and not in the usual way of an address, and to excuse this unusual manner of communicating with his Majesty by "the importance of the affair and the exigencies of time."

The King, on May 6, informed the House by Secretary Sir Joseph Williamson, that he had been surprised both by the matter and by the form of the two votes, but that even without such objections he had asked the advice of both Houses, and he should wait for the advice of both. The next step of the Commons was to resolve on three addresses to the King, the first for a speedy answer to the address in which they had communicated their votes, the second for removal of those counsellors who had advised the King's answers to the addresses of May 26 of last year and of January 31,[1] and the third to remove the Duke of Lauderdale from his Majesty's councils and presence. The two last addresses were afterwards joined in one, which was presented on May 11, and the King replied on the instant in strong language. "This address," he said, "is so extravagant that I am not willing speedily to give it the answer it deserves."[2]

On the thirteenth Charles prorogued Parliament to the twenty-third, saying to the Lords before the Commons appeared in their House, that he had received

[1] See pp. 244 and 266. The answers were on May 28 and February 4.

[2] This answer does not appear in the Journals: it was perhaps purposely not entered. It is given in Sir Thomas Webster's Collection of extracts of proceedings of this session of Parliament; and it is mentioned by Sir John Reresby in his Memoirs (p. 204), and Barillon reported it in a despatch of May 11 (Mignet, iv. 570).

an address from the Commons which he resented very highly, and he therefore intended a short prorogation "in hopes they will consider better what they ought to do at their return, and that he had chosen to tell the Lords this first, as he was very well satisfied with their dutiful behaviour."[1] Charles told Barillon that this short prorogation was intended to lead to a longer one. He had already renewed negotiations with Louis, the younger Ruvigny having on the second of May carried from Charles a project of treaty, containing a provision for a subsidy from France to Charles in the event of peace on the terms indicated in the project. Six millions of francs for three years was the subsidy asked for. Barillon wrote at the same time that Charles would wait twelve days for the answer, and that he would himself sign the treaty if all the terms were agreed to, as there was no one of his subjects bold enough to do so.[2] Louis at first made difficulties, and seemed disposed to decline entering into the consideration of the project; but he changed his mind, instructed Barillon to negotiate, and after a week's negotiation between Charles, Danby, and Barillon, on May 17, a treaty was signed by Charles and countersigned by Barillon, by which it was agreed that, if Holland did not accept within two months the terms offered at Nimeguen Charles should withdraw all the English troops in Flanders, except three thousand that were to remain at Ostend, and should receive from Louis six millions of francs in four quarterly payments, on the conditions

[1] Mignet, iv. 570.
[2] Ibid. iv. 574. Dalrymple, ii. 156.

of his disbanding within two months more all his newly raised forces, except the three thousand for Ostend and three thousand more for Scotland, and of his proroguing Parliament for four months at least.[1] With this treaty Barillon sent over a letter from Charles to Louis, expressing his extreme joy at the renewal of friendship, and mentioning that he had begged Ruvigny to speak to Louis of all his needs, and that he relied on his friendship. This refers to Charles's desire and hope that Louis would yet grant him two further annual payments of six millions of francs. Barillon wrote that he had been much pressed for the subsidy for three years. Charles now met his Parliament on May 23, feeling secure of six millions of francs, and he spoke in a high tone. Things now, he said, were violently driving to a peace, but he was resolved to save Flanders either by war or by a peace, and which must depend upon others. Whether he could keep up a suitable army and navy till peace was concluded must depend on their supplies, and he put it to them strongly to provide either for the subsistence of the men, or for paying them off. With an effrontery which cost him nothing, he added that he had never had any intentions but of good to the Parliament and the people, and never should. The Commons immediately returned to their former ways. On the twenty-ninth, they made a vote, which was sent

[1] This treaty is printed both by Dalrymple (ii. 162) and Mignet (iv. 578) with the date May 27, which is new style; but I have always given the dates in old style. Dalrymple has made a mistake in treating Charles's letter to Louis, which was of the same date as the treaty, and dated May 17 (old style), as having been written ten days before the signature of the treaty. May 17, old, is May 27, new, style.

to the King by the Privy Councillors of the House, that, if the King pleased to enter into war with France, the House was ready to support and assist him, but if not, that they would proceed to consider of making provision for the speedy disbanding of the army. Charles replied the next day that the French King had made offers for a cessation till July 27, which he believed would be accepted, and end in a general peace; but that this was uncertain, and therefore he did not think it prudent till then to dismiss either fleet or army, and that the keeping them up till then could add little or nothing to the expense. He asked them for a supply in the meantime for their subsistence and for other purposes. On receipt of this reply the House instantly resolved that all the forces raised since the twenty-ninth of September of last year, except those which had been sent to the plantations, be forthwith paid off and disbanded, and they voted 200,000*l* for this purpose. On a remonstrance from the King, they afterwards modified this resolution by extending the time, as to the forces in Flanders, to July 27.; this modification was carried by only six votes, 172 to 166. They resolved on the same day, that after the eighteenth no proposals should be made for further supplies until after the next recess. In a few days after it was known to Charles that the Dutch had come to terms with Louis, and that Spain was also quite ready to agree. Peace now seemed certain, when the French representatives at Nimeguen disclosed that Louis would not transfer the towns to be restored to Spain till the Emperor had restored to Sweden his Swedish conquests. This interrupted the treaty, the

day for the signature of which had been appointed. The unexpected check occurred before the time had arrived for the exchange of ratifications of the secret treaty between Charles and Louis of May 17. There was once again a prospect of war, and Charles was again warlike. He refused to ratify the secret treaty of May 17. He despatched three thousand more men into Flanders. Sir William Temple was sent to the Hague, and quickly negotiated a treaty with Holland, providing that if France did not in a fortnight withdraw her pretensions on behalf of Sweden, the two countries would combine to force France to accept the terms formerly made by the King of England, or such other terms as success might justify their demanding. France yielded, and peace was suddenly concluded between Holland and France on July 31. A general peace followed.

It is now time to speak of Shaftesbury's part in reference to these foreign affairs. He and his chief political friends had not been pleased by the marriage of the Prince of Orange; they had throughout distrusted Charles, and suspected, under all the outward phases of his policy, collusion with Louis XIV. and designs on the liberties of England; they had feared from the marriage of the Prince of Orange and the good understanding between him and his two uncles, Charles and the Duke of York, facilities for a general peace too favourable to the interests of France at the expense of England and Europe; and they were ultimately dissatisfied with the peace of Nimeguen. Going back to the negotiations in which Shaftesbury,

as Lord Ashley, had a part before the war in alliance with France against Holland of 1672, we may now remember that he was then full of care and caution against the growth of the power of France, and especially the growth of her navy, and a disproportionate increase of territory.[1] Ever since he had been free from the trammels of office and outspoken in opposition, the fear of French power and ambition was a ruling feeling with him. He early refused to return to office and spurned splendid offers which would have tempted any unprincipled or interested politician, because he would not again place himself in the way of subserviency as an English minister to a French policy. In October 1675, in his speech on moving for a day for hearing Dr. Shirley's appeal, in which he entered into a general review of the state of the nation, he had spoken as follows on the war and on France :—

"We owe the peace of these last two years, and the disengagements from the French interest, to the two Houses differing from the sense and opinion of Whitehall. So, at this time, the thing in the world this nation hath most reason to apprehend is a general peace, which cannot now happen without very advantageous terms to the French, and disadvantageous to the House of Austria.

"We are the King's great counsellors; and, if so, have a right to differ, and give contrary counsels to those few that are nearest about him. I fear they would advance a general peace. I am sure, I would advise against it and hinder it, at this time, by all the ways imaginable. I heartily wish nothing from you may add

[1] See p. 29 of this volume.

weight and reputation to those counsels that would assist the French. No money for ships, nor preparations you can make, nor personal assurances our Prince can have, can secure us from the French if they are at leisure.

"The French King is grown the most potent of us all at sea: he has built twenty-four ships this last year, and has thirty more than we; besides the advantage, that our ships are all out of order, and his so exquisitely provided for that every ship has its particular storehouse. It is incredible the money he hath, and what he has laid out in making of harbours. He makes even nature itself give way to the vastness of his expense: and, after all this, shall a Prince so wise, so intent upon his affairs, be thought to make all these preparations to sail over land, and fall on the back of Hungary, and batter the walls of Kamienitz? Or is it possible he should oversee his interest in seizing of Ireland, a thing so feasible to him, if he be master of the seas, as he certainly now is; and which, when attained, gives him all the southern, Mediterranean, and East and West India trade, and renders him both by situation and excellent harbours perpetual master of the seas without dispute?"[1]

Shaftesbury and others in opposition had probably no particular knowledge of the pecuniary transactions, disgraceful to England and ruinous to her influence, between Charles and Louis; but they may have suspected them, and Shaftesbury had come to know what had been secretly done when he was one of Charles's ministers and advisers, and when he had been tricked and duped by the secret negotiations of the Treaty of Dover. Shaftesbury cannot be blamed for incurable

[1] See the whole speech in Appendix VI.

distrust of the King and fear of France. He cannot be blamed for endeavouring to find assurance of good intentions of Louis in declarations of his agents rather than in professions of the English King or his Ministers, for welcoming signs of dissatisfaction of Louis with Charles and his advisers, and for acting in concert with the French Ambassador to obstruct supplies and armaments which, whatever may have been the motives of the French King, he and his political associates feared would be used against England. When the younger Ruvigny was sent over by Louis in January to communicate with Lord Russell and his friends, Shaftesbury was still in the Tower; and Lord Russell at this time paid him several visits there. The official list of Shaftesbury's visitors shows that Russell visited Shaftesbury on January 1, January 12, and February 16.[1] Later, after Shaftesbury's release from imprisonment, Barillon wrote, March 4, that Lord Russell and Lord Holles were satisfied with Ruvigny's assurances that Louis did not desire to make the King of England despotic, and that he would help to bring about a dissolution of the Parliament, and that Lord Russell had said that he would engage Lord Shaftesbury in the affair, and that he should be the only man to whom he would speak of it without reserve.[2] In the same despatch Barillon said that Lord Russell had expressed

[1] Lord Russell acquired his title by the death of his elder brother in the interval between the second and third of these visits. The entries are William Russell, January 1, Hon. William Russell, January 12, and William Lord Russell, February 16, 1678.

[2] Dalrymple, ii. 131. Barillon's words are: "Milord Russell lui a dit, qu'il engageroit Milord Shaftesbury dans cette affaire, et que ce seroit le seul homme à qui il en parleroit clairement."

to Ruvigny his fear that the King of France approved of Charles's declaring war against him as an expedient for getting money, and that, as soon as the money was given, there would be peace; that Ruvigny had replied that, as proof of the contrary, he was authorized to distribute a considerable sum of money among members of Parliament, in order to induce them to refuse supplies for the war, and had asked for names of some who might be gained, whereto Lord Russell replied that he should be very sorry to have any connexion with persons capable of being gained by money. On April 24, Barillon wrote that he had learnt from Buckingham, Shaftesbury, Russell, and Holles, that they feared that the forces which were being raised were to be employed against the English people, and that they, therefore, pressed for a declaration of war, that Charles might be committed to war before obtaining supplies. They had further told Barillon that the King of France would gain credit with the whole English nation if he would oblige Charles to say whether he meant peace or war, and that they would then be in a position to convince their party that Louis was not in concert with Charles to oppress the people of England.[1]

In the following year, at the time of the opening of the next Parliament, in March 1679, Shaftesbury committed to paper his opinion of the Peace of Nimeguen, the manner in which it had been brought about, and what he regarded as its shortcomings and evil consequences. The following is the beginning of a paper, which I have found at St. Giles's, headed "The Present State of the King-

[1] Dalrymple, ii. 132-9.

dom at the opening of the Parliament, March 6, 1679." The rest of it will be printed later in this chapter, when I arrive at the opening of the next Parliament:—

"If you consider the state of the kingdom as to foreign affairs, you will find a peace newly concluded at Nimeguen by the mediation of the English Court, and, to speak truly, enforced by them, by which, notwithstanding the Crown of England hath neither honour nor visible advantage, but is exposed, as well as the Emperor, the King of Spain, the States of the United Provinces, to the mercy of the French.

"The States were the first that broke off from the Confederacy, affrighted with the Prince of Orange his marriage to the Duke's eldest daughter and the great army[1] was pouring in from England into Flanders, to be put under the conduct of his Royal Highness, which they were satisfied by the King of France was not intended against him, but to assist his son-in-law to be absolute Prince over them. This made the Dutch, at any rate, to deliver themselves from the present danger and throw themselves into the arms of the French King for protection, laying this down for a certain maxim, that the English Court, being so nearly related to the Prince of Orange, must be, for this age at least, the most dangerous enemy of their liberties.

"The Spaniards, being thus forsaken by the Dutch, and not understanding those forces that were sent over from England, with what interest they came, or how far they might be trusted against the French King, who they well knew had the ascendant of our English Court,

[1] *That* here omitted, according to Shaftesbury's usual mode of writing, of which there are several instances in his compositions previously given.

thought fit to save something and make haste to sign a dishonourable treaty with France, and leave the Emperor and Princes of Germany to shift for themselves, and all this to save a country that will never be worth his charge to keep, being useful only for the barricade between France and the United Provinces.

"The Emperor quickly follows the example of the Spaniard, and makes a peace for himself and that part of Germany, leaving the King of Denmark, Brandenburgh, and other Protestant Princes joined with them, to stand on their own legs.

"Thus France, with the assistance of England, hath not only assured to himself these vast conquests and accessions to his empire he hath lately made, but hath broken all his enemies to pieces, more effectively by the peace than he could have done by his enemy in war, it being hardly possible they should dare trust one another in any new association that have proved so false in this.

"Since this peace, the King of Spain is marrying to a daughter of France, and there is strong reason to believe what almost all the wise Protestants affirm, that the great inducement to both the King of Spain and the Emperor to do what they have done is a secret universal Catholic league, carried on by the clergy, for the utter extirpation of the Protestant religion out of the world: and this, they all say, cannot be carried on without the full concurrence of the English Court, and the wisest of the French Protestants do apprehend these great preparations both by sea and land which the French King makes to be in prosecution of that design, and to assist the carrying on of the work here. The French Protestants, who are little less in number than two millions of fighting men, sink under this burden, not expecting a possibility of relief from England, where their great reliance and support is

most naturally placed, since, were the Protestant Government favourable to them, as it is not, yet they could not rely, where a Popish successor is so near at hand that will ruin and betray all those correspondences and transactions they shall have with England."

The following memorandum by Shaftesbury, found among the papers at St. Giles's, discloses an overture made by the Duke of York to Shaftesbury and two political associates in the spring of 1678, for co-operation to procure a dissolution of the Parliament and the removal of Danby. The memorandum is not dated, but circumstances prove that the dissolution must have occurred during the last session; and strong collateral proof is furnished by a statement in the Duke of York's Memoirs that an overture for his co-operation for Danby's removal was made to him in April 1678 by Lord Russell and others of Shaftesbury's party, and by him indignantly rejected. The following confidential memorandum, in which Shaftesbury promises secrecy for the Duke of York's benefit, authenticates itself, and proves the mendacity of James the Second. There can be little doubt that the three to whom the offer was to be communicated were Lord Holles, Lord Russell, and Shaftesbury:—

"A proposition having been brought unto us from his Royal Highness by Sir Thomas Littleton and Sir John Baber to this effect, viz. that his Royal Highness would procure the dissolution of this Parliament and the calling of a new one, and the removal of the Treasurer, and thereupon desired to know what the King and he might expect in return for so great a benefit by him obtained

unto the whole kingdom, which they told us his Royal Highness would have to be communicated unto us three: our answer was, that we gave his Royal Highness humble thanks for the honour he did us to impart his good intentions to us, which we were resolved to keep as a secret till he should be pleased to give us leave to publish it: but for the thing itself, that we could not undertake anything, but it was our humble opinion, and we were even confident that an act so worthy of himself, and so much for the advantage and service of the King and good of the nation, would be so grateful and acceptable to the generality of the people, and would give such satisfaction and contentment to all good and sober men, that both his Majesty and his Royal Highness could not miss of a return of all thankfulness and hearty affection from the new Parliament at their first meeting, who, we are assured, would be most forward to express their readiness to do them all real service, and so settle a thorough and lasting confidence between the Crown and the subject."

The above is indeed an important paper, proving as it does the falsehood of a positive statement made by the Duke of York in his Memoirs. The Duke writes, complaining of Danby's sacrificing him in the beginning of 1679 by persuading the King to send him out of England:—

"Here it ought to be observed, in how different a manner the Duke carried it towards the Lord Treasurer, for in April 1678, a little before the meeting of the Parliament, the Lord Russell and other considerable men of the party sent to his Royal Highness to let him know that if he would trust them and join with them in what they should propose to him for the good both

of his Majesty and of the nation, they would undertake to remove the incapacity under which he lay of being High Admiral or exercising any public office, and that they would do anything else that might be for his satisfaction, but that they expected from him his concurrence with them in prosecuting the Lord Treasurer and removing him from his employment. To this the Duke's answer was, that he willingly would join with them in anything he thought was for the good of the King and the nation, but that to fall upon the King's minister without the King's consent, unless he were visibly guilty of some great misbehaviour (which to his Royal Highness did not appear), he thought to be very contrary to the good both of the King and of the nation, and therefore could not join with them in it, but advised them to take other measures." [1]

This glaring instance of perversion of truth shows how impossible it is to rely on any statements of James concerning himself, and how much Shaftesbury's repu-

[1] Life of James II. i. 513, and compare Macpherson's State Papers, i. 88. James speaks on other occasions of overtures made by Shaftesbury's party and rejected by him, but we may judge from this that his statements cannot be relied on. There is no doubt that there was an understanding between the Duke of York and Shaftesbury's party when they acted together in November 1675, to support Lord Mohun's motion for an address for a new Parliament. Notwithstanding strong statements in Macpherson's extracts from James's Memoirs to the effect that the Duke of York and the Roman Catholic Peers indignantly rejected solicitations from Shaftesbury and his friends to join them in opposition to Danby's Test Bill in 1675, it is a fact that some Roman Catholic Peers did act zealously with the Opposition, and their support is gratefully recorded, in terms of marked respect, in the "Letter of a Person of Quality to his Friend in the Country," of which Shaftesbury was the inspirer and probably virtual author. James pretends that he haughtily discouraged an overture from Shaftesbury for co-operation with him to have the Parliament dissolved after the fifteen months' prorogation from November 1675 to February 1677. (Life, i. 505.) The Duke of York and his friends were during the whole of the fifteen months of the prorogation in negotiation with Shaftesbury's party. Coleman's first letter to Father La Chaise is sufficiently explicit as to this. See further on, p. 295.

tation may have suffered by falsehoods of those who, enjoying special advantages for imposing on credulity, have undeservedly found favour and belief with posterity.

One or two minor incidents in Shaftesbury's course during the sittings of the House of Lords from the end of February, when he left the Tower, to the prorogation on July 15, deserve mention. The Earl of Pembroke being to be tried by the Peers on a charge of murder, and the House of Lords having in its preparations for the trial resolved that seats should be provided in Westminster Hall for the Lords spiritual and temporal, Shaftesbury, on March 22, alone entered a protest against making provision for the Bishops.[1] It is thus seen that Shaftesbury was against the Bishops sitting on trials in capital cases, before the discussions of the question in 1679, with reference to the expected trials of Danby and the five Roman Catholic Peers. Shaftesbury took an active part in the debates on a claim by Mr. Villiers to the title of Viscount Purbeck, which occupied the House of Lords during this period: and on June 18 he made a very elaborate speech on a legal question arising out of this claim, viz. whether a title of honour could be extinguished by its being surrendered as a fine to the King: he argued that it could not be so extinguished, and the House of Lords resolved in accordance with his opinion.[2]

[1] Lords' Journals, March 22, 1678.

[2] Ibid. June 18. See the speech reprinted from Shower's Parliamentary Cases, in Appendix VI. On June 8 an appeal against a decree of Shaftesbury, when Lord Chancellor, in Starr *versus* Sherwell, was dismissed by the House of Lords.

Parliament had been prorogued on July 15, and did not sit again till October 21. In the interval the Popish Plot of Titus Oates burst out on the public. The truth as to this Plot may fairly be taken to be that there was solid foundation for the charge of a grave conspiracy to substitute the Roman Catholic for the Protestant religion in England, and that there were ideas and plans of wicked men for making way for the quick succession of the Duke of York by murdering Charles; but that on this foundation of truth was laid by Oates, Tongue, Bedloe, and other miscreants, who grew more and more audacious in falsehood as they found encouragement, a mass of perjuries, for which the undoubted considerable quantity of truth and the general well-founded distrust and alarm procured general belief, which thus carried away into eager prosecution of charges, now known to be false, many able and conscientious politicians, which led to convictions and capital punishments of innocent and honourable Roman Catholic Englishmen, and which, when time had cleared away the thick mists raised by contemporary alarm and passion, and the villanous character of Oates and his associates had become fully revealed, intensified a natural reaction, and produced an entire disbelief in the Plot, as ill-judged as the almost universal entire credence of the time. As to the general charge of a conspiracy against the Protestant religion, we are now in possession of much ampler and stronger proof than that furnished by the letters of Coleman, the secretary of the Duchess of York, which were discovered in consequence of Oates's informations, and were suffi-

cient to prove the truth of the charge. The verdict of a prejudiced and interested contemporary,—interested to discredit the Plot and defame all its distinguished upholders, and from whom every word in its support is an extorted concession to truth,—is in accordance with this view. Dryden, writing three years after Oates's first revelations, and writing with the special object of ruining Shaftesbury, whose life at the moment trembled in the balance under a charge of high treason, thus fairly judged the Plot:—

> "From hence began that Plot, the nation's curse,
> Bad in itself, but represented worse,
> Raised in extremes, and in extremes decried,
> With oaths affirmed, with dying vows denied;
> Not weighed or winnowed by the multitude,
> But swallowed in the mass, unchewed and crude.
> Some truth there was, but dashed and brewed with lies
> To please the fools and puzzle all the wise:
> Succeeding times did equal folly call
> Believing nothing or believing all."[1]

But the same poet has with foul injustice charged Shaftesbury with the authorship of falsehoods about the Plot, and specially arraigned him for endeavours to prove that Charles was a Roman Catholic. It is necessary to explain that, in the scriptural nomenclature with which Dryden veiled realities in "Absalom and Achitophel," Jebusite means Roman Catholic.

> "The wished occasion of the Plot he takes;
> Some circumstances finds, but more he makes;
> By buzzing emissaries fills the ears
> Of listening crowds with jealousies and fears
> Of arbitrary counsels brought to light,
> And proves the King himself a Jebusite."

[1] Absalom and Achitophel, published in November 1681.

More than enough is now known to satisfy us that an endeavour to prove the King a Roman Catholic was an endeavour to prove him to be what he was. Immediately after Charles's death, James, his successor, published a paper purporting to have been written by Charles in advocacy of the Roman Catholic religion, together with another written by his own first wife, the Lord Chancellor Clarendon's daughter, explaining the reasons of her conversion to the Roman Catholic faith. Dryden had then become a Roman Catholic, was writing vigorously in prose and verse in defence of his new religion, which but a few years before he had as vigorously in prose and verse decried, and was employed and paid by James to reply to a criticism of Stillingfleet on the Duchess of York's paper. Dryden then believed,—it may be said knew,—that the paper published as Charles's was so far authentic that, if not actually written by him, it was written for him and by him adopted. Dryden had never the honesty to acknowledge the injustice of that line in which he upbraided Shaftesbury for endeavouring to "prove the King himself a Jebusite." Burnet in his History, and Halifax in his admirable Essay on the Character of Charles the Second, who both personally and familiarly knew him, take for granted that Charles was a Roman Catholic. Dryden's other charge against Shaftesbury of inventing circumstances of the Plot is more serious, if it were not self-confuted by virtual impossibility. This is a charge which would make Shaftesbury to be base and fiendish. There is no proof of this charge. The whole public life of Shaftes-

bury, his long intimate and uninterrupted friendships with wise and good men, and the special testimony of Locke, than who none knew him better or would judge a friend more truly or by a higher standard, combine to prove him a man of delicate and scrupulous honour. The kindness of this able man of warm temperament and of energy has been amply proved in preceding pages. Dryden's malice made him blind even to the flagrant inconsistency between this charge against Shaftesbury of invention of details of the Popish Plot and his eulogium on Shaftesbury's integrity as a Judge. The biographer of Lord Russell, his descendant, has said that similar accusations against Russell cannot be believed on account of his acknowledged sincerity, but he adds that "the character of Lord Shaftesbury is not so pure as to free him equally from reproach;"[1] and he proceeds to imagine for Shaftesbury a process of reasoning by which he may have reconciled himself to doing evil that good might come, and to fathering Oates's falsehoods, with knowledge of his knavery, that he might rouse an apathetic nation to salvation of Protestantism in danger. "Shaftesbury," says Earl Russell, "who was not very scrupulous, may have satisfied his conscience with such arguments." But where is the proof that Lord Shaftesbury was unscrupulous? Where is the proof that he was a less honourable man than Lord Russell? To represent Shaftesbury as unscrupulous and dishonourable is to condemn Lord Russell himself, for Lord Russell was his close companion and familiar friend. Bishop Burnet, who did not love

1 Lord John Russell's Life of William Lord Russell, p. 114, ed. 1853.

Shaftesbury, says that the King told him one day of suspicions that Shaftesbury had "set on Oates and instructed him;" but Burnet did not believe this. "I thought," he says, "the many gross things in his narrative showed there was no other hand than Oates or Tongue in the framing it; and Oates in his first story had covered the Duke and the Ministers so much, that from thence it seemed clear that Lord Shaftesbury had no hand in it, who hated them much more than he did Popery."[1] Shaftesbury and Russell went hand-in-hand throughout the long course of inquiries into the Plot and proceedings arising out of all the accusations of Oates and others; and these two went hand-in-hand in this matter with Halifax, Essex, the Earl of Bridgewater, the Marquis of Winchester and others, all men whose honour has never been called in question. Halifax was a man of incomparable acuteness, and not more acute than self-possessed: and Essex was a man of considerable ability. It was not leaders of the Opposition only who entirely credited and eagerly prosecuted the Plot; members of the Court and Government held the same tone.[2] The Lord

[1] Hist. of Own Time, ii. 168.

[2] Lord Campbell acquits Shaftesbury of having invented the Popish Plot and suborned Oates; but he says that he made great mischief out of it, "pretending" to believe all its wildest fictions, that "he was mainly instrumental in propagating the general panic on the opportune murder of Sir Edmund Bury Godfrey," and was the moving spring of every act and speech of every one in prosecution of the Plot, being even supposed to have suggested to Sir Thomas Player, the noted saying, that were it not for precautions made for the defence of the City, "all the Protestant citizens might rise next morning with their throats cut!" It would seem hardly necessary, and it is not plausible, to make Shaftesbury author of a City Chamberlain's blunders of speech. But this is the way in which Lord Campbell, throughout his biography, makes Shaftesbury a great universal cause. There is no

Chancellor Finch, when speaking officially for the King on the opening of the new Parliament in March 1679, six months after Oates's first accusations, said: "At home we had need look about us, for his Majesty's royal person hath been in danger by a conspiracy against his sacred life, maliciously contrived and industriously carried on by those Seminary Priests and Jesuits and their adherents, who think themselves under some obligation of conscience to effect it, and having vowed the subversion of the true religion amongst us, find no way so likely to compass it as to wound us in the heart and to kill the defender of the faith." More than a year and a half after, on the opening of Parliament in October 1680, Charles himself urged further inquiry into the Plot and the speedy trial of the four impeached Peers, saying, "I do not think myself safe, nor you neither, till that matter be gone through with." Lord Russell, in the last sad days of his honoured life, prepared a statement which he delivered to the Sheriff on the scaffold of his judicial murder; and in this statement he thus referred to the accusations of invention and subornation of falsehood which malice had raised and thoughtlessness spread against him as well as against Shaftesbury:—

"As for the share I had in the prosecution of the Popish Plot, I take God to witness that I proceeded

parallel for this universal assignment of events to Shaftesbury as cause except in the famous parody of the "Rejected Addresses," where Napoleon "fills the butchers' shops with large blue flies" and "burns the wardrobe of poor Lady Finch." The wild fictions which Shaftesbury believed were believed very widely, and by many other honourable and able men.

in it in the sincerity of my heart, being then really convinced, as I am still, that there was a conspiracy against the King, the nation, and the Protestant religion; and I likewise profess that I never knew anything, directly or indirectly, of any practices with the witnesses, which I look upon as so horrid a thing that I never could have endured it; for, thank God, falsehood and cruelty were never in my nature, but always the farthest from it imaginable. I did believe, and do still, that Popery is breaking in upon the nation, and that those that advance it will stop at nothing to carry on their design."

This is Shaftesbury's vindication likewise. Not only closely allied in political action, but living together in the intimacy of friends and relatives, each knew the other's every action and could scan the other's every thought. It is unnecessary to seek to exalt Russell's character by depreciating Shaftesbury's. Russell's virtue is not denied, but because Shaftesbury was greatly his superior in ability, he was not therefore his inferior in honour.[1]

It was on the twenty-sixth of September, 1678, that Titus Oates made his celebrated deposition before a London magistrate, Sir Edmund Bury Godfrey. The next

[1] It is well known that Lord Russell was not a man of brilliant ability. Barillon, in a very important despatch of July 22, 1680, which Dalrymple overlooked, gives a list of the most considerable members of the House of Commons, and thus describes Lord Russell: "He is not a great genius (un grand génie), mais il a du crédit par sa fermeté depuis longtems dans le parti du peuple. Il est étroitement lié avec M. le Duc de Monmouth et milord Shaftesbury." This same despatch contains a list of those to whom gratifications may be offered. Lord Russell of course is not among these, but Algernon Sydney, of whose receipt of French money for himself there is unfortunately no manner of doubt, is in it, and Barillon recommends that 500 guineas should be given to him at once, with a promise of 500 more. (Archives of French Foreign Office.)

day he appeared before the Privy Council, and there repeated his story of a wide-spread scheme, set on foot by the order of the Jesuits, for the establishment of the Roman Catholic faith in the three kingdoms, no matter at what cost of rebellion and bloodshed; of plots to assassinate the King, and even the Duke of York also, if he refused to join in the scheme for putting his brother Charles out of the way; of offers made for the murder of Charles, to Sir George Wakeman, the Queen's physician, first of ten thousand and then of fifteen thousand pounds, to poison the King, and of Wakeman's having, as he understood, agreed to do so, and having been often seen since with Jesuits; of the great Fire of London of 1666 having been the work of the Jesuits, of their having again caused a fire in Southwark in 1676, and of a plan now under their consideration for the burning of Westminster, Wapping, and all the ships in the river; and of a bull recently issued by the Pope, appointing persons, whom Oates named, to all the bishoprics and ecclesiastical dignities in the Church of England, in the belief that the King would be murdered and Popery re-established. This information led to the seizure of papers of Coleman, who had been previously for some time Secretary to the Duchess of York. Two letters of Coleman to Father La Chaise, the confessor to the French King, written in 1675 and 1676, contained passages sufficiently alarming for the uninitiated about a design for substituting the Roman Catholic religion for Protestantism in England, and about applications for French money to be used to promote Roman Catholic interests in the English Parliament,

and amply sufficient to give colour and importance to Oates's statements, though much suspicion attached to these statements in other respects, and though they came from a most discredited man. In a letter of September 29, 1675, Coleman had given La Chaise a long account of his communications, under the Duke of York's sanction, with La Chaise's predecessor, Ferryer, and with Ruvigny, the French Ambassador, during the three preceding years, for money from the French King to bring about a dissolution of Parliament and promote the interests of the Roman Catholic religion; and he then proceeded to ask for pecuniary aid for operations in the next session of Parliament for two objects, the restitution of the Duke of York to the command of the fleet, and a general liberty of conscience. "Our prevailing in these things," said Coleman, "will give the greatest blow to the Protestant religion here that ever it received since its birth." Pressing the claims of the Duke of York for assistance from France, Coleman said, "For my part, I can scarce believe myself awake or the thing real when I think of a Prince in such an age as we live in, converted to such a degree of zeal and piety as not to regard anything in the world in comparison of God Almighty's glory, the salvation of his own soul, and the conversion of our poor kingdom, which has a long time been oppressed and miserably harassed by heresy and schism." In a second letter of the year 1676, Coleman again solicits money, and writes as follows:—"We have here a mighty work upon our hands, no less than the conversion of three kingdoms; and by that, perhaps, the utter sub-

duing of a pestilent heresy, which has domineered over great part of this northern world a long time. There never were such hopes of success since the death of our Queen Mary, as now in our days, when God has given us a Prince, who is become (I may say by a miracle) zealous of being the author and instrument of so glorious a work; but the opposition we are sure to meet with is also like to be great: so that it imports us to get all the aid and assistance we can, for the harvest is great, and the labourers but few. That which we rely most upon, next to God Almighty's Providence, and the presence of my master, the Duke, is the mighty mind of his Christian Majesty, whose generous soul inclines him to great undertakings." These passages of Coleman's letters are alone enough to justify all who resolved on thorough inquiry into the grave questions raised by Oates's accusations, and who entered on that inquiry with a foregone belief in a great and dangerous Plot. Within a fortnight after Oates's deposition before Sir Edmund Bury Godfrey, this magistrate disappeared from his house, and after five days of mystery, his dead body was discovered, bearing much appearance of murder. It was immediately thought that he had been murdered by Roman Catholics, in revenge for his having taken Oates's deposition. Those who discredited the Plot, and were interested in doing so, suggested suicide, or murder by emissaries of Oates in order to aggravate odium against the Roman Catholics, and inflame excitement about the Plot. There is no positive proof of any one of the three theories as to the cause of Godfrey's death; and none of the

three is free from difficulty. That Godfrey was murdered by Roman Catholics was at the time the prevailing, as it is the most probable, belief. A few days after the discovery of Godfrey's death, Parliament met amid the greatest excitement.

Parliament met on October 21, and the Popish Plot engaged immediately the zealous attention of both Houses. The Commons lost no time in appointing a Committee to consider of ways and means for the preservation of his Majesty's person, and another to inquire into Sir Edmund Bury Godfrey's murder, and into the plot and conspiracy against the King's person and government. The Lords also appointed a Committee for the like inquiry. Both Houses concurred in an address for a day of fasting and humiliation to pray God to protect the King and all his loyal subjects, and to bring to light all secret machinations against the King and the kingdom. Both Houses presented an address, on October 26, for the removal of Popish recusants from within ten miles of the City of London. The Commons quickly sent to the Lords a bill for disabling Papists from sitting in either House of Parliament. In consequence of the information given by Oates at the bar of the House of Commons, five Roman Catholic Peers were committed to the Tower,—the Earl of Powis, Viscount Stafford, Lord Petre, Lord Arundel, and Lord Bellasis. After examinations of Coleman in Newgate, by Committees of both Houses, the Lords agreed, on November 21, with the Commons in resolving that "there hath been, and still is, a damnable and hellish plot, contrived and carried on by

the Popish recusants, for the assassinating and murdering the King, and for subverting the Government, and rooting out and destroying the Protestant religion."

The Lords, in communicating to the Lower House their agreement in this resolution, informed them that, in view of imminent danger, they had resolved to sit *de die in diem*, both forenoon and afternoon, and begged the House of Commons to do so too. On November 4, Lord Russell moved, in the House of Commons, to address the King, "that the Duke of York may withdraw himself from his Majesty's person and councils." The debate was adjourned to the eighth, and again on the eighth to the fourteenth. The King meanwhile persuaded his brother to make a concession to his opponents and withdraw from the Council; and James, in his place in the House of Lords, announced that he had done so, and then on the ninth the King went to the House of Lords, and there addressed both Houses. Thanking them for their solicitude for the safety and preservation of his person, he assured them that he was as anxious as they could wish to "establish a firm security of the Protestant religion;" "and this," he added, "not only during my time (of which I am sure you have no fear), but in all future ages, even to the end of the world." Then he told them—and this was the special object of his visit—that he would heartily concur in any reasonable bills for safety in the reign of his successor, "so as they tend not to impeach the right of succession, nor the descent of the Crown in the true line, and so as they restrain not my power, nor the just rights of any Protestant successor." The

Commons were pleased with this speech, and immediately thanked the King, who, in reply to their thanks, said that it would always be his study to preserve the Protestant religion and support the interest of his people. The address for the removal of the Duke of York from the King's person as well as his Council was not proceeded with. The bill for disabling Roman Catholics from sitting in either House of Parliament, which had been sent up to the House of Lords on October 28, had lingered there, where it had many opponents: the Commons frequently reminded the Lords of it; and at last the Lords passed it on November 20, with a proviso excepting the Duke of York from its operation. There was an excited debate and a close division in the Commons on the question of agreeing with the Lords on this amendment in the Duke of York's behalf; and the proviso was accepted by a majority of two.

This exclusion of Roman Catholics from the Legislature, justified at the time by grave danger for the State, continued in existence for a century and a half, long after danger from Roman Catholics had ceased, and long after the Act had become but a symbol of religious intolerance and cause of civil discontent. Shaftesbury's zeal for this Act is fully justified by the circumstances of the time. His general principles of religious tolerance would have led him to support the repeal of the Act, when the cry for Roman Catholic emancipation first arose among us, had his lot of life been cast in that later time. It was not till 1829 that Roman Catholics were restored to Parliament; and

it was but the year before, in 1828, that justice gained another victory and bigotry received another blow in the repeal of the Test and Corporation Acts, by which Protestant Nonconformists suffered,—relics of a legislation, conceived in pure intolerance, of an earlier period of the reign of Charles the Second, which Shaftesbury, when Lord Ashley and a minister of Charles, had, as a friend of religious liberty, opposed.

The passing of this Act was quickly followed by a new and startling incident in the Popish Plot. Oates and Bedloe now accused the Queen of being privy to the plot for assassination of the King, and on November 28, Oates, from the bar of the House of Commons, exclaimed, "I, Titus Oates, accuse Catherine, Queen of England, of high treason." It is probable that this charge against the Queen was entirely false. The Commons, however, gave ear to it, and voted without delay an address to the King, begging that the Queen and all her retinue and all Papists, or reputed or suspected Papists, be forthwith removed from the Court at Whitehall. This address was sent up to the Lords for their concurrence, which the Lords refused. Shaftesbury and two other Peers, Lord Clare and Lord Paget, entered a protest against the refusal. On December 5, the Commons resolved to impeach the five Peers in the Tower.

An inspection of the Journals of the House of Lords helps to realize the fact that Shaftesbury was neither the sole nor the foremost prosecutor of the Plot in his House, and that men of all parties joined in the measures taken. Of the very numerous Committee appointed

on October 23 for inquiry into the Plot, Dolben, Bishop of Rochester, was the reporter. On the same day the Marquis of Winchester, the Earls of Bridgewater and Essex, and Halifax and Shaftesbury, were appointed a Committee to draw up the address for the removal of Papists from London and Westminster, and the Marquis of Winchester was the reporter. On October 26, Shaftesbury was one of a Committee of five, Danby, Essex, Clarendon, and the Bishop of London being the other four, appointed to go to the Tower to examine Coleman and other prisoners; and Danby reported. On October 30, Shaftesbury was added to the Sub-Committee previously appointed for investigating the murder of Sir Edmund Bury Godfrey. On November 16, he was named one of a Committee of thirteen to consider what papers and letters were to be collected and put into the Attorney-General's hands for the trial of Coleman; Essex was the reporter from this Committee.

In the middle of December, the attention of Parliament was turned from the Plot by an accusation against the Lord Treasurer, Danby, which resulted quickly in a vote for his impeachment. Ralph Montagu, the Ambassador in Paris, had lately conceived anger against Danby on failing to obtain the appointment of Secretary of State, which he had solicited, and he had come over to England in August without permission, and proceeded to endeavour to be elected member of the House of Commons for one or other of the seats which were vacant when Parliament reassembled on October 21. He contested Northampton

with Sir William Temple, and Temple was returned by the Mayor and Montagu by the Sheriff: the House declared Montagu duly elected, and he took his seat on November 11. Danby had information that Montagu was bent on ruining him, and had given the leaders of Opposition information of his letter to Montagu of March 25, instructing an application to the French King for a subsidy.[1] Montagu's great object now was to revenge himself on Danby; and he was further stimulated by the hope of pecuniary reward from France. He had himself, in October, proposed to Barillon that, if he caused Danby's removal from the Court in six months, he should be rewarded by the King of France in one of three ways, either with a gift of a hundred thousand crowns, or with a well-secured annuity of forty thousand francs, or with a pension for life of forty thousand francs. He had at the same time asked Barillon for a hundred thousand francs to be spent in obtaining the aid of members of Parliament.[2] This virtuous patriot obtained the concurrence of honourable men among the Opposition by representing that Danby had been angry and had punished him, because he had refused to act on his instructions and ask Louis for money. The truth is that he had not only been a willing agent in similar pecuniary negotiations with France, but had from time to time suggested and urged them. Danby endeavoured to foil Montagu by a seizure of his papers. He disclosed to the Council that he had received information of Montagu's having held in Paris several private conferences with the Pope's

[1] See p. 270. [2] Dalrymple, ii. 193.

Nuncio there, without directions or instructions; and on this statement, the seizure of Montagu's papers at his house was ordered by the Council on December 15. But the important papers, on which Montagu intended to found his accusation, had been successfully secreted; and when the next day Sir Thomas Ernely, Chancellor of the Exchequer, informed the House of Commons, by the King's order, of the seizure of Montagu's papers and the reason for it, Montagu, knowing that the precious documents had not been found, informed the House that he had in his custody several papers which he conceived might tend very much to the safety of his Majesty's person and the preservation of the kingdom. Lord Russell, Sir Henry Capel, Mr. Harbord, and Sir Scroop Howe were immediately appointed a committee to take Montagu's directions, and go for these papers. They quickly brought a box of papers, from which Montagu selected two letters of Danby to himself, one of January 17, and the other of March 25, 1678. The latter contained these words:—

"In case the conditions of the peace shall be accepted, the King expects to have six millions of livres yearly for three years, from the time that this agreement shall be signed betwixt his Majesty and the King of France; because it will be two or three years before he can hope to find his Parliament in humour to give him supplies, after the having made any peace with France; and the Ambassador here has agreed to that sum, but not for so long a time. If you find the peace will not be accepted, you are not to mention the money at all; and all possible care must be taken to have this whole negotiation as

private as is possible, for fear of giving offence at home, where for the most part we hear in ten days after of anything that is communicated to the French ministers. I must again repeat it to you that whatever you write upon this subject to the Secretary (to whom you must not mention a syllable of the money) you must say only as a thing you believe they will consent to, if you had power formally to make those demands."

The words here quoted were enough to excite a flame. Here was proof positive for the first time of trafficking by the King and one of his Ministers with the French King for money. Before there had often been much suspicion, but now for the first time the odious traffic was dragged into light. The King had endorsed Danby's letter with a postscript, "This is written by my order, C. R."[1] But the King's order could not shield the Minister. It was resolved in the Commons, after a long debate, that there was matter sufficient in the letters to impeach Lord Danby. Articles of impeachment for high treason and other offences were immediately prepared, and sent up to the House of Lords; and the Commons desired Lord Danby's immediate commitment. In a debate which arose, Danby defended himself with spirit and ability. The Lords in the first instance, on a motion made that Lord Danby should withdraw, resolved that he should not do so. Then it was debated whether he should be committed; and on December 27 the Lords resolved not to commit him. It was at the

[1] This royal postscript is not printed in the Commons' Journals. Dr. Lingard suggests that the postscript may have been suppressed at the reading. But the letter remained in the possession of the House; and it is probable that it was omitted from the Journals with deliberate intention.

same time resolved that a copy of the articles of impeachment be sent to Lord Danby, and that Danby be required to put in his answer on or before the third of January. But before that day came the Parliament was prorogued, on December 30, to February 3, 1679; and before this day arrived, this Parliament, which had been in existence for eighteen years, and had come to be called the pensioned Parliament, was by proclamation dissolved on January 24.

In the beginning of January, Sir Robert Southwell, Clerk of the Privy Council, communicated by order of the King a deposition made before the Council as to a supposed design on Shaftesbury's life; but the evidence was flimsy, and the informant could give no clue to the parties, and the matter dropped.[1]

Danby had quickly followed up the prorogation of the Parliament on December 30 by a negotiation with Lord Holles and his friends for his own protection. Charles thought again of his old almoner, Louis, and made strenuous endeavours to obtain from him a promise of money. Louis desired the dismissal of Danby and the disbanding of the army. Charles told Barillon that he desired nothing so much as the friendship of the King of France, and that he would consent to all his conditions, whatever they might be, and that he would rather depend on Louis than on his people; and he begged for four millions of francs. Louis did not grant the desired subsidy. Danby made arrangements with some of the popular leaders for

[1] See Sir Robert Southwell's letter, with Lund's deposition, in Appendix VII.

neutrality, if not support, on the question of his impeachment; and he then persuaded Charles to dissolve the Parliament. Barillon wrote a few days after, January 31, 1679, that the dissolution was the consequence of Danby's negotiation with Holles, by whom he himself had been consulted, and who had been told by him that the dissolution of a Parliament, which had raised an army to make war against France, could not but be agreeable to the French King. Barillon says in the same despatch that the negotiation had been carried on very secretly, and that he did not know if Shaftesbury and Buckingham had been privy to it, but that they were much pleased with the dissolution. He added that Lord Holles and his friends wished to save the Duke of York from being sent out of the country.[1]

The new Parliament was called for March 6. The elections were favourable to the Opposition, and adverse alike to Danby and the Duke of York. There was now a decided desire on the part of Charles, who saw no help for it, to conciliate the Opposition, and the principal leaders of Opposition were more moderate than he had expected. In February, when the elections were just concluded, Lady Russell wrote from London to her husband, who was at the Marquis of Winchester's at Basing, having been just elected for Hampshire, that there was a report that letters of Lord Winchester and Lord Shaftesbury had been opened, and that in these "letters they give their friends great caution not to choose fanatics, at which the King was much pleased, and

[1] Archives of French Foreign Office.

said he had not heard so much good of them a great while." The day after writing this she dined and played basset at Lord Shaftesbury's. Any glimpses into Shaftesbury's private life are interesting, and it is important to note any sign of intimacy between Lord and Lady Shaftesbury and the Russells. On February 15, Lady Russell writes to her husband: "At dinner at Lord Shaftesbury's I received your letter, and found nothing in it that hindered my offering it to him to read; he did so at the table, and some part of it to the company." Among the guests were Lord Wharton, Mr. Justice Ellis, and Mr. Charlton. Shaftesbury said jokingly to one of his guests, who had been returned for a county, that "Lord Russell was a greater man than he, for he was but one knight and Lord Russell would be two." Lord Russell had been returned both for Hampshire and Bedfordshire. The fond wife's ears tingled at hearing the member reply that, "if it were in his power, he should be a hundred." Lady Russell says, "This is but one of many fine things I heard to-day, yet my heart thinks abundantly more due to my man."[1]

In the course of February the Earl of Sunderland was appointed Secretary of State in the room of Sir Joseph Williamson. Sunderland's appointment was represented by himself and by the King to Barillon as designed to please France;[2] and Sunderland was much

[1] Lady Russell's Letters, i. 47—49. The county member's name is printed Sir Ieveril, but this must be a mistake; there is no such name in the list of members. The right name may be Sacheverel, who was elected member for Derbyshire.

[2] Dalrymple, ii. 210.

indebted for it to the Duchess of Portsmouth, who nine years before had been planted in England as the King's mistress by Louis XIV., who had now all the political ascendency in Charles's councils which Lady Castlemaine, since Duchess of Cleveland, had had in the early years of his reign, and all whose feelings and interests were with France.

Before the meeting of Parliament, Danby prevailed on Charles to declare to the Duke of York his desire that he should go abroad. James entirely refused to go voluntarily, and Charles recoiled from commanding his departure. An endeavour was then made to re-convert him to Protestantism, and Sancroft, Archbishop of Canterbury, and Morley, Bishop of Winchester, had a conference with him for this purpose. But they argued with him in vain. Then the King hinted to the Duke the expediency in his own interest of absence from England for a time. The Duke expressed his readiness to go abroad on two conditions: one an order in writing to depart, and the other a promise that he should not in his absence be sacrificed to the aims of Monmouth, whose friends were now confidently saying that a contract of marriage between Charles and Monmouth's mother existed, and could be authenticated by sufficient proof. Charles gave the order desired, and, for further satisfaction of his brother on the second point, caused to be entered in the Privy Council Book on March 3 a solemn declaration in the presence of Almighty God that he had never given or made any contract of marriage, nor was ever married to any woman whatsoever but his wife, Queen Catherine, then living. He requested

the Councillors present to attest this declaration with their signatures. James left England for Brussels on the next day, March 4. Parliament assembled two days after. Danby hoped by the Duke of York's exile to quiet and please the Parliament, and avert his own danger; but he was very soon bitterly disappointed.

I have already extracted Shaftesbury's account of our foreign affairs in special connexion with the Treaties of Nimeguen from a paper written by him at the time of the opening of the new Parliament on March 6, 1679. I now give the remainder of this paper, which relates to home affairs and the Popish Plot, and contains very interesting notices of the characters of the Duke of York, Danby, and the Duchess of Portsmouth. The first is a connecting sentence.

"Thus I have given you the state of foreign matters. The affairs at home are in no better posture.

"The King, who, if he had been so happy as to have been born a private gentleman, had certainly passed for a man of good parts, excellent breeding, and well natured, hath now, being a Prince, brought his affairs to that pass that there is not a person in the world, man or woman, at home or abroad, that dares rely upon him or put any confidence in his word or friendship; his affairs in the last extremity for want of money; his revenue is for several years anticipated; his credit of borrowing perfectly at an end; all his councils managed by persons of the most contrary interest to his, whose abilities, were they true and faithful to him, could not serve him. His brother, his minister, his mistress play the game into one another's hands, and perfectly govern all matters. By this conduct not only the Government,

but the nation itself, is become despicable abroad; the dominion of the various seas perfectly in the French hands, and by consequence all our trade and communication with our plantations will in a short time be cut off. The soberest and most peaceable of the people have, either in town or country, hardly slept this winter for fear of fire and massacring by the Papists, whilst they suspect the Government itself to be in the plot, and that their best security for the King's religion is the Act of Parliament which forbids by a grievous penalty to say that he is of any other.[1]

"As concerning the plot and the murder of Godfrey, the King's discourses and managing are new and extraordinary. No man can judge by them but that he is in the plot against his own life; and no man doubts but he is so far in as concerns all us. The discovery of the plot goes on, and the guilty of both that and the murder are brought to execution, and yet the King and his Ministers are by no man thanked for either, the weight of the law and the universal mind of the nation carrying through.

"The revenge, the pride, the folly of the Minister hath yet delivered the nation from the greatest mischief that hung over it at the last long Parliament, from whom for several years we have apprehended the being made slaves by a law which, had the Ministers been furnished with skill in any proportion to their malice, had certainly been long since effected. But their game is now lost and not to be recovered, and if you ask me how they came to make this great mistake, my answer is they are the very same men that the discovery of the plot tells you designed to write after the copy of the

[1] There was such a provision in the Act of 1661 (13 Car. II. c. 1), "for safety and preservation of his Majesty's person and government against treasonable and seditious practices and attempts."

French massacre, and forgot that the Papists of France were forty to one at that time to the Protestants, and the Protestants in London and England were forty to one at this time to the Papists; and if their Don Quixote adventure failed, they resolved to put themselves and their towns into the French hands, being sure to have them restored when the people were subdued, and in this they could not possibly be deceived, since the faith of great and most powerful Princes never fails.

"But if you consider the character of those three that managed all our matters you will little wonder at the posture we are in.

"The Duchess of Portsmouth, a creature of France, a French woman by birth of the lowest of the gentry there,[1] of no fortune, of worse fame, her being mistress to a great person preferred her to a Court service, a very indifferent beauty, and of wit hardly enough for a woman

[1] In speaking of the Duchess of Portsmouth at p. 160, I have described her as being "of excellent family." My epithet may be too favourable, but Shaftesbury's is probably too depreciatory, on this conventional point of family. Evelyn mentions her parents as being in London in 1675, and as meeting them at Sir Richard Browne's, who had known them intimately in Brittany. "He [M. de Querouaille] seemed a soldierly person and a good fellow, as the Bretons generally are; his lady had been very handsome, and seemed a shrewd understanding woman. . . . His daughter was now made Duchess of Portsmouth, and in the height of favour: but he never made any use of it." (Diary, June 15, 1675.) She had been maid of honour to the Duchess of Orleans. Evelyn was at Euston, Lord Arlington's, when she first became the King's mistress, and the entry in his Diary is most curious. There was a large and brilliant party in the house, including Colbert (the French Ambassador), Clifford, and Lady Sunderland: and Evelyn was there for a fortnight. The King came over from Newmarket almost every second day. "It was universally reported that the fair lady was bedded one of these nights, and the stocking flung after the manner of a married bride. Nay, it is said I was at the ceremony, but it is utterly false. I neither saw nor heard of any such thing while I was there, though I had been in her chamber, and all over that apartment late enough, and was myself observing all passages with much curiosity. However, it was with confidence believed she was first made a *Miss*, as they call these unhappy creatures, with solemnity at this time."

(her cunning and French mode supplying that defect). The King at Dover had his choice at Madame de Lude and this, and the Duke of Buckingham, the great confidant to the French King, is employed to place her about him, it being absolutely necessary to maintain a good correspondence between the Crowns that our King should have a mistress of state of the King of France his choosing, that the secrets of our councils may be known and discovered to him, and the severest of his commands may be more softly conveyed to us. Besides, this opens a door of the most free and familiar access to all the King of France's Ambassadors and agents.

"The Lord Treasurer is the next in affairs, a plausible, well-spoken man of good address, and cut out naturally for a courtier, but one of no depth of judgment at all in any matter; neither in Parliament or Council speaking like one that understood the matter thoroughly, but rather touching it dexterously and slightly, no man speaking liker a gentleman and less like a statesman. His natural faculty, for which he was among all his friends and acquaintance so famous, never was of use to him till now, a confident lie being current payment to a lazy Prince. This man is proud, ambitious, revengeful, false, prodigal, and covetous to the highest degree,[1] introduced into his office and ministry by the favour of the Duke, whose creature he is sworn to be and hath hitherto been; recommended by the Lord Treasurer Clifford to the Duke for his suc-

[1] Bishop Burnet's character of Danby supports Shaftesbury's. "He gave himself great liberties in discourse, and did not seem to have any regard to truth so much as to the appearances of it, and was an implacable enemy, but he had a peculiar way to make his friends depend on him and to believe he was true to them. He was a positive and undertaking man; so he gave the King great ease by assuring him all things would go according to his mind in the next session of Parliament. And when his hopes failed him, he had always some excuse ready to put the miscarriage upon. And by this means he got into the highest degree of confidence with the King, and maintained it the longest of all that ever served him." (Own Time, ii. 12.)

cess, that he might revenge himself as well of Arlington and his particular enemies as the nation in general, for so he confessed to some of his most intimate friends, calling him the worst of men. This man stands impeached by the last House of Commons for high treason, for which he broke them and continues the ministry; and 'tis a question amongst the wisest men whether he will not now sacrifice the Queen and the Duke to the Protestant interest if he can save himself, and be contented to continue his plans and power, and marry the King to his daughter or niece. This man is an enemy to the Duke of Monmouth, and the Duke to him, not only as he hath been a creature to the Duke of York, but having married the Earl of Plymouth[1] to his daughter. The Duke and he both endeavoured to supplant Monmouth by him.

"The Duke of York is the third of this junto, who dreams of nothing but his brother's crown, ever since Dr. Morley and his brethren of the *Jure Divino* Episcopacy did design to make him King, when his elder brother had, as they thought, revolted to the Scotch Presbytery. He is every way a perfect Stuart, and hath the advantage of his brother, only that he hath ambition and thoughts of attaining something he hath not, which gives him industry and address even beyond his natural parts. Yet his conduct, courage, judgment, or honour are not much to be confided in. To secure the Crown and a party to himself at home and abroad, and that the Pope might not dispense with a divorce to his brother, he hath declared himself of the Popish religion, of all others the most contrary to the interest of England, and which must certainly either lose him the Crown or awaken the nation so as the Government

[1] The Earl of Plymouth was a natural son of Charles II. by Catherine Pegge. He died at Tangier in November 1680.

will not be worth the having. Yet this religion suits well with his temper, heady, violent, and bloody, who easily believes the rashest and worst of councils to be most sincere and hearty. His elder brother is much the abler man, and hates him perfectly, and he knows it.[1] Yet he hath the ascendant over him, and by little acts and importunity doth much with him, and seems to govern all: the reputation of which he affects much, and hath really done him great service in continuing his power at Court, though it hath extremely disgusted the nation. His interest and designs are to introduce a military and arbitrary government in his brother's time, which only can secure a man of his religion a quiet possession of his beloved Crown."

This interesting paper explains Shaftesbury's view of the Popish Plot, and his fears, whether well or ill founded, which were those of most of the nation, of incendiarism or massacre from a Roman Catholic plot; and his explanation is consistent, natural, and not overcharged. The graphic sketches of character are valuable contributions to our knowledge of James, Danby, and the Duchess of Portsmouth.

[1] Barillon, in a despatch of October 21, 1680, in the Archives of the French Foreign Office, says that Buckingham had told him that he had often drunk with the King, who always, when he talked freely in wine, showed much bitterness and even aversion towards the Duke of York.

CHAPTER XVII.

1679—1681.

Meeting of the new Parliament, March 6, 1679—King refuses approval of Seymour as Speaker—After prorogation for two days the Commons and King agree on Serjeant Gregory—Resolution of both Houses affirming a horrid and treasonable plot and conspiracy—King grants Danby a pardon—Commons demand justice against Danby and his immediate committal—Danby's flight and subsequent surrender and committal—Bill of attainder against Danby—The Lords unsuccessfully endeavour to substitute banishment for attainder—Shaftesbury and the leaders of Opposition in the Lords support the lesser punishment—King wishes to conciliate the Opposition—Shaftesbury's speech on the state of the nation, March 25—Lord Ossory's intemperate attack—The Privy Council reconstituted and reduced in number—Shaftesbury President of the Council—New plan of government—Temple's part in bringing about this change probably exaggerated—Barillon's despatches—Shaftesbury's declaration of unchanged opinions—Openly advocates Monmouth as successor to the throne—Sunday debate in Commons on securing Protestant religion—Resolution against Duke of York—The King proposes expedients—A second Sunday debate, May 11, 1679, when Commons resolve on a bill for excluding the Duke of York from the succession—Bill read second time May 21—Sudden prorogation, May 26, without consulting Privy Council—Passing of Habeas Corpus Act—Letter from Duke of Ormond—Sunderland's scheme for bringing Prince of Orange over to England for meeting of Parliament in October—Dissolution of Parliament July 12—New Parliament called for October—King's illness—Duke of York comes to England—Required to return to Brussels on the King's recovery—Monmouth ordered out of England and his office of Lord General taken from him—Prince of Orange's views—Negotiations with Louis for a money treaty—Duke of York returns to England to go to reside in Scotland—Parliament prorogued till January 26, 1680—Shaftesbury dismissed from Presidentship of Council—Meal-tub Plot—Shaftesbury's belief in attempts to assassinate him—Faria's information—Letter to Shaftesbury from his chaplain—Essex leaves the Treasury—Offers of First Commissionership of Treasury to Shaftesbury—He refuses—Sunderland, Hyde, and Godolphin now leading Ministers—The Chits—Monmouth

suddenly returns to England without leave and disobeys the King's order to quit—Petitions for meeting of Parliament—Proclamation to prorogue till November—Proclamation against tumultuous petitioning—Petitioners and Abhorrers—King declares, on January 28, his intention to recall Duke of York to London from Scotland—On Shaftesbury's advice, Russell, Cavendish, Capel, and Powle quit the Council—Letter to Locke—Letter from the Earl of Bridgewater—Irish Plot—The Black Box—King's illness in May 1680—Letter from Lord Holles—Indictment of Duke of York as Popish recusant—Dismissal of the grand jury—Letter of political gossip from Locke—Negotiations of Sunderland with Shaftesbury—Shaftesbury's illness—Duke of York sent away to Scotland—Shaftesbury tries to moderate Russell—Parliament meets October 21, 1680—Exclusion Bill—Thrown out by the Lords—Eloquence of Halifax—Discussions in Lords for security of Protestant religion—Shaftesbury proposes divorce of the Queen for barrenness — Barillon's sketch of a debate in the Lords—Address of Commons for removal of Halifax—Viscount Stafford's trial and condemnation—King's speech about alliances and money, December 15—Shaftesbury's speech — Parliament prorogued, January 10, 1681 — Dissolved, January 18—New Parliament called to sit at Oxford on March 21 —Changes in the Ministry—Prince of Orange.

THE new Parliament met on March 6, 1679. Danby, sanguine and confident, began by an imprudent quarrel with Seymour, the Speaker of the last Parliament, whom the new House of Commons re-elected. He or his wife having a quarrel with Seymour, he advised the King to refuse approval of him as Speaker; and Seymour, knowing what was intended, abstained from asking the King to excuse him, when he went to the Lords to announce his election. The Lord Chancellor, however, was ready for the occasion, and informed Seymour, who was a Privy Councillor, that the King reserved him for other service, and commanded the House to make another choice. The friends of the Government now proposed Sir Thomas Meres, but the House resented the King's refusal, contending that his approval was a mere form, and that the right of choice was with the Commons. To a message of the Commons the King

replied in a conciliatory manner, but without yielding; and he gave the House further time for consideration, in the hope that some third person might be agreed upon. This, however, did not satisfy the Commons, who stood by Seymour. They now made a written representation to the King, who replied rudely, "Gentlemen, all this is but loss of time, and therefore I command you to go back to your House, and do as I have directed you." This did not dispose the Commons to yield; they made another representation on March 12, and the day after the King prorogued the Parliament for two days. When it re-assembled on the fifteenth, in a new session, an agreement had been come to for a third person. Lord Russell proposed Serjeant Gregory, who was warmly supported by Sacheverel and Lord Cavendish, and unanimously chosen Speaker, and received the King's approval.[1]

The Commons immediately fell on the two questions of the Popish Plot and Lord Danby's impeachment. On March 20, a secret Committee was appointed to make all necessary preparations for articles against the impeached Lords in the Tower, and to take further evidence relative to the Plot; and on the same day a message was sent to the Lords, reminding them of Lord Danby's impeachment, and desiring that he be committed to safe custody. The next day the House of

[1] All the proceedings relative to the election of Speaker are omitted from the published Journals of the House of Commons, in which there is no trace of the short session March 6—14, or of the two sittings of Saturday March 15 and Monday March 17. In the Lords' Journals only proceedings relative to the presentation of Seymour and Gregory are omitted. Anchitel Grey's reports of the debates give the information of the Commons' proceedings.

Commons resolved that "they are fully satisfied by the proofs they have heard that there now is, and for divers years last past hath been, a horrid and treasonable plot and conspiracy, contrived and carried on by those of the Popish religion, for the murdering his Majesty's sacred person, and for destroying the Protestant religion, and the ancient and well-established government of the kingdom;" and this resolution being sent up to the Lords, they concurred in it. A bill was on the following day brought in to secure the King and kingdom against the danger and growth of Popery. After renewed instances of the House of Commons against Danby, the Lords began with a bill to render him for ever incapable of coming into his Majesty's presence, and of all offices and employments, and of receiving any gifts or grants from the Crown, and of sitting in the House of Peers. But this did not satisfy the Commons. The King now granted Danby a pardon. The House of Commons, on learning this, was infuriated. A Committee was appointed to inquire as to this pardon, and the Lord Chancellor, being visited by this Committee, informed them that he had been commanded to take the seal to the King, and having done so, he laid it on the table, whereupon "his Majesty commanded the seal to be taken out of the bag, which his Lordship was obliged to submit unto, it not being in his power to hinder it; and the King wrote his name on the top of the parchment, and then directed to have it sealed, whereupon the person that usually carried the purse affixed the seal to it." And the Lord Chancellor added that "at the very time of affixing the seal to the

parchment, he did not look upon himself to have the custody of the seal."[1] The reading of this report of the Committee led to a violent debate, which ended in a resolution, carried without a division, for a message to the Lords to demand justice against Lord Danby, and that he be immediately sequestered from Parliament, and committed to safe custody. The Commons resolved at the same time on an address to the King, representing the irregularity and illegality of the pardon granted to Danby, and the dangerous consequence of granting pardon to persons under impeachment of the House of Commons. Danby now fled. The King, being in the House of Lords when the message came from the Commons, sent him a note by Lord Plymouth, his natural son and Danby's son-in-law, urging him to fly immediately; and the serjeant-at-arms was at Danby's house at Wimbledon to arrest him within an hour after he had left it.[2] A bill was now brought into the Commons, ordering Lord Danby's attendance by a certain day, and on failure of his appearance attainting him. The Lords endeavoured to modify and moderate the bill, and make the punishment banishment, but the Commons stood firm to attainder, and the bill was passed requiring Danby to surrender by the twenty-first of April, on pain of attainder. He surrendered on the fifteenth, and was sent to the Tower. The King was vexed at Danby's surrender, feared he should now get no money from the Commons till his trial was over, and professed himself to be freed by Danby's sur-

[1] Commons' Journals, March 24, 1679.
[2] Barillon, April 3, 1679, in Archives of French Foreign Office.

render from all obligation further to support him against the House of Commons.[1]

The leaders of the Opposition in the House of Lords, Shaftesbury included, had joined in endeavouring to reduce Danby's punishment from attainder to banishment. Shaftesbury and Essex, with the Lord Chancellor, had been appointed a Committee to draw up the argument for the House of Lords in one of several Conferences with the Commons about the Lords' amendments to the bill, in support of the lesser punishment.[2]

There was at this moment an approximation between the King and the leaders of the Opposition, soon to eventuate in a great change of government. Essex, one of Shaftesbury's best friends and supporters, had already taken office as head of a Commission for the Treasury, on the removal of Danby from the Lord Treasurership.[3] Sunderland, the new Secretary of State, was nephew of Lady Shaftesbury, and was much impressed with the necessity of giving office to Shaftesbury, whom he personally liked, and of whose parliamentary power he stood in awe. At this moment Sunderland and the Duchess of Portsmouth were the King's two chief advisers; and both trembled with fear that anger would fall on them after Danby.[4] Barillon

1 Barillon, April 17, 1679, in Archives of French Foreign Office.

2 Lords' Journals, April 7, 1679.

3 The date of the patent of this Commission for the Treasury was March 26. The Commissioners were the Earl of Essex, Laurence Hyde, Sir John Ernely, Sir Edward Dering, and Sidney Godolphin.

4 Dalrymple, ii. 211. Barillon wrote on April 7 that "the Duchess of Portsmouth and Sunderland appeared to have the chief credit, but they are not without fear of being attacked." (Archives of French Foreign Office.)

reported on April 7, that Shaftesbury, Halifax, and "other chiefs of the cabals," were professing good intentions to the King, who on his side made advances, and showed a desire to satisfy them and follow their advice.[1]

Shortly before these mutual advances, Shaftesbury had made a strong and stirring speech in the House of Lords, on March 25, on the state of the nation. This speech was a strong manifesto of an acknowledged leader of Opposition. The dangers for Protestantism and the misgovernment of Scotland and Ireland were Shaftesbury's chief themes; and, as was his wont, he introduced Scripture with effect. "'We have a little sister, and she hath no breasts: what shall we do for our sister in the day when she shall be spoken for? If she be a wall, we will build on her a palace of silver: and if she be a door, we will inclose her with boards of cedar.'[2] We have several little sisters without breasts: the French Protestant Churches, the two kingdoms of Scotland and Ireland. The foreign Protestants are a wall, the only wall of defence of England. Upon it you may build palaces of silver, glorious palaces." He dwelt at length on the evil state of Scotland under Lauderdale's government,[3] and on the unsatisfactory condition of Ireland, where Ormond was Lord Lieutenant. Ossory, the Duke of Ormond's son, angry with Shaftesbury's reflections on Irish misgovernment,

[1] Archives of French Foreign Office.

[2] Song of Solomon, viii. 8, 9.

[3] It is said, in a bitter polemical pamphlet of the time, cited by Roger North, that forty written copies of this speech were sent down to Scotland by the next post. (Examen, p. 86.)

replied to Shaftesbury with hot personality. Having recounted his father's merits and services, Ossory concluded with these stinging words:—

"Having spoke of what he has done, I presume with the same truth to tell your Lordships what he has not done. He never advised the breaking of the Triple League; he never advised the shutting up of the Exchequer; he never advised the Declaration for a toleration; he never advised the falling out with the Dutch, and the joining with France; he was not the author of that most excellent position of *Delenda est Carthago*, that Holland, a Protestant country, should, contrary to the true interests of England, be totally destroyed. I beg your Lordships will be so just as to judge of my father and of all men according to their actions and counsels."[1]

Ossory, when he delivered this intemperate speech, had not known or had forgotten that Shaftesbury and his father had acted cordially together to break the French alliance, terminate the Dutch war, and thwart the measures for establishing Popery; and we who know Cabinet secrets of that time, which were withheld from the knowledge of contemporaries, know that

[1] Ossory's speech is printed in Carte's Life of Ormond, vol. ii., Appendix, p. 90, and with it a very curious letter from the Prince of Orange to the Duke of Ormond, applauding the speech. Shaftesbury's speech, as he published it, is in Appendix V. It contains much less about Ireland than about Scotland, and is free from personal allusion to Ormond. This was not the first occasion of an intemperate attack by Ossory on Shaftesbury. Ossory was reprimanded by the House of Lords, and obliged to make an apology, for an attack on Shaftesbury in 1666. (See vol. i. p. 301 of this work.) Ossory died in the following year, deeply regretted: he was brave, and had many fine qualities, and the circumstances of his death were sad. Dryden's splendid verses on him in "Absalom and Achitophel," and Evelyn's fine eulogium (Diary, July 26, 1680), are well known.

Shaftesbury was duped by the King into support of the French alliance, promoted the Dutch war in ignorance of all Charles's designs, and did not advise, but on the contrary opposed, the Stop of the Exchequer. The Declaration for a toleration he did advise and favour, in accordance with the prevailing views of the King's dispensing power, and on wise principles of religious toleration. A few weeks after this violent speech of Ossory, the Duke of Ormond wrote a friendly letter to Shaftesbury asking him to excuse it.[1]

Within a month after this strong speech in opposition, Shaftesbury was installed Lord President of a newly-constituted Privy Council, constituted so as to include many leading members of the Opposition and to give them effective voice in its deliberations. The fall of Danby had left Charles without any Minister of commanding character. The Duchess of Portsmouth and Sunderland desired to neutralize the Opposition by means of conciliation, and by bringing its leading members into office. Essex supported these views, and Essex was in great intimacy with Monmouth, who was now high in the King's favour and in the favour also of the governing Ministers. All these were anxious to bring Shaftesbury into power.[2] The King at this time obtained from Sir William Temple a project of a new form of government, with a Privy Council reduced in number, and composed in two nearly equal portions of high officers of government and state and of independent members of Parlia-

[1] The letter is printed further on, p. 337.

[2] Temple's Memoirs from the Peace in 1679, vol. ii. of Works, p. 506.

ment; such Privy Council to be the sole and constant adviser of the King in all matters of administration, one without a Cabinet or Cabal, and without chief adviser, or, as now called, Prime Minister. Temple's plan pleased the King, and the Duchess of Portsmouth and Sunderland supported it. The King went to the House of Lords on April 21, and briefly informed both Houses of the change which he had made in the Privy Council, and of the new mode of government by its advice which he had resolved on. The number was reduced from fifty to thirty, with power left to the King to name a President and appoint Princes of the Blood and the Secretary of State for Scotland for the time being. Thus the whole number of the new Council was thirty-three, including Prince Rupert, Lauderdale, and Shaftesbury, the President. Of the thirty-two, the Archbishop of Canterbury and the Bishop of London represented the Church, and two, the Lord Chancellor and a Lord Chief Justice, the Bar; there were thirteen holders of high office, political and of the household. The fifteen independent Peers and members of the House of Commons included the following, who had been conspicuous in opposition: the Marquis of Winchester, the Earls of Salisbury and Bridgewater, Viscount Halifax, Lords Falconbridge and Holles, Lords Russell and Cavendish, Edward Seymour and Henry Powle. Others who had been leaders in opposition were members as holders of office: Monmouth as Master of the Horse; Essex, First Commissioner of the Treasury; and his brother, Sir Henry Capel, First Commissioner of the Admiralty. Prince

Rupert was there as a Prince of the Blood, and Shaftesbury as President. Much stress is laid by Temple, who was the originator of this plan, on the aggregate wealth of the members of this Privy Council, which in revenues of land or emoluments of office amounted to about 300,000*l.* a year, "whereas," he says, "those of a House of Commons are seldom found to have exceeded four hundred thousand pounds."[1] Sir William Temple was a member of the Council. He had refused to become Secretary of State, when Sunderland was appointed, and he again refused offers of the other Secretaryship to replace Coventry. Temple mentions that in a private consultation with the King of the Lord Chancellor, Sunderland, Essex, and himself, the King expressed a strong disinclination to Halifax, when he was suggested for a member;[2] and that he himself vehemently objected to the nomination of Shaftesbury, who was proposed by the King both to be a member of the Council and President. Temple probably, in his Memoirs, has much exaggerated his own share and influence in the appointment of this new Privy Council. No other contemporary writer speaks of Temple as the author of the change, while Temple represents himself as sole author. Algernon Sidney

[1] Temple's Works, ii. 508. Henry Sidney, in his Diary, mentions the great wealth of Sunderland, Essex, and Halifax, who soon became the King's chief advisers among those Privy Councillors. The three, he says, have more land than the King (vol. i. p. 29, July 17, 1679).

[2] Bishop Burnet says that Sunderland and Monmouth both informed him of the difficulty which they had had in getting the King to agree to including Halifax. "The Duke of Monmouth told me that he had as great difficulty in overcoming that, as ever in anything that he studied to bring the King to." Burnet learnt also from Sunderland that "the King was easy in the bringing in Lord Shaftesbury." (Own Time, ii. 198.)

ascribes the new measure to Sunderland.[1] Burnet does not mention Temple. Barillon, in a despatch written on the day of Charles's public announcement, a translation of which is printed at the end of this volume, does not mention Temple, but he speaks of Monmouth, Sunderland, and the Duchess of Portsmouth as promoting the plan, and of a secret negotiation with Holles and Shaftesbury. Sunderland told Henry Sidney, when going to the Hague, to tell the Prince of Orange how instrumental the Duchess of Portsmouth had been in changing the Council.[2] It is clear from Temple's narrative that the King had deliberated and made up his mind about Shaftesbury, before mentioning his intention to Temple. Monmouth and Sunderland had recommended Shaftesbury to the King, and found the King willing.[3] Three days before the King's announcement in the House of Lords, Barillon had written as follows to Louis XIV.:—

"I am informed that a secret negotiation has been going on for some days between the principal chiefs of the parliamentary debates and the King of England, as to an entire change in the Privy Council and the direction of finance, and as to placing the highest offices and administration of affairs in the hands of

[1] A. Sidney's Letters, p. 34. Sidney says, on the first formation of the Council, that Sunderland, Essex, and Halifax would, if they agreed, govern (pp. 34, 61). This interesting little collection of A. Sidney's letters to Henry Savile (London, 1742) contains some puzzling misdatings of letters. The first two letters in the volume, which are dated February 1678-9, belong to February 1680-81, and the letter of October 31, at p. 158, following a series of letters of 1679, belongs to the year 1680.

[2] H. Sidney's Diary and Correspondence, i. 15.

[3] Barillon's despatch of April 21, in Appendix VII. Burnet's Own Time, ii. 198.

those who have been hitherto the most opposed to the Court. These promise that the King shall have enough money for the needs of state and for his private wants. My informants give me to understand that in the proposed agreement, every means will be sought of establishing a good understanding with France, on the supposition that your Majesty has no intention of doing anything against England. I think I know that this business is apparently in the way of settlement. But in this country one cannot answer for anything but what is entirely completed."[1]

Shaftesbury's new post, which was newly made for him, carried a salary of four thousand pounds, and his official rank was next to that of the Lord Chancellor.[2]

The probability is that the King took the idea in the first instance from Temple, continued to talk with him about it and consult him, and, making him believe that it was a secret between Temple and himself, made all the arrangements as to persons, in his usual deceptive way, with Sunderland and the Duchess of Portsmouth.

It was soon known to all that Shaftesbury did not intend to abandon his opinions on taking the high post which had come to him unsought. On the very day after that on which the King announced to Parliament the great change in the Privy Council, Shaftesbury took care to let the Peers know with what intentions he had resumed office. There was a question in the House of Lords of requiring Protestant Nonconformists, including Quakers, to take the oaths which Roman Catholics

[1] Barillon, April 17, in Archives of French Foreign Office.
[2] Barillon, in Appendix VII.

were called upon and refused to take. The Bishops and the Court party were for requiring the oaths to be taken by all Protestant Dissenters: Shaftesbury was of the contrary opinion, and the question was carried against him. Barillon writes that Shaftesbury spoke with great vehemence, and that when he saw that he was to be defeated, he said, at the top of his voice, "that, if he had thought he could not succeed in a matter of such consequence, he would not have taken office, and that he desired his post in the Council only that he might serve his country, and take care of the safety and interests of the whole nation."[1] Barillon adds that this speech had had an excellent effect on all Shaftesbury's political friends, and that it was probably intended to destroy at once any suspicions of his having deserted them on this occasion. According to Algernon Sidney, Shaftesbury proclaimed that he could live neither with nor under a Papist.[2]

The following members of the new Privy Council were appointed a Committee for the Foreign Affairs:—the Lord Chancellor (Finch), Shaftesbury, Arlington, who had continued interruptedly to hold the office of Lord Chamberlain since 1674, Essex, Halifax, the two Secretaries of State (Sunderland and Henry Coventry), and Sir William Temple.[3] It was an essential part of the new scheme that this Committee was not to supersede the Privy Council, but to be entirely subordinate to it. Sunderland, Temple, Essex, and Halifax came by

[1] Barillon, April 24, 1679, in Archives of French Foreign Office.
[2] A. Sidney's Letters, p. 43, April 28, 1679.
[3] Barillon to Pomponne, April 28, 1679. (Archives of French Foreign Office.)

degrees to an understanding for private conferences.[1] In the first instance, Halifax warmly co-operated with Shaftesbury on several questions, including the removal of Lauderdale from the Secretaryship of State for Scotland, which they pressed very strongly on the King, but altogether without effect.[2] But there was one question on which Halifax and Shaftesbury did not agree. Shaftesbury continued openly to advocate measures for making the Duke of Monmouth successor to the throne in place of the Duke of York; and Halifax was no favourer of Monmouth. The favour which Monmouth now enjoyed from his father, and the great official position of Shaftesbury, were likely to suggest that Charles was not unwilling to acquiesce in Monmouth's supplanting the Duke of York as successor; and Shaftesbury did all that was in his power to encourage this belief.

On Sunday, April 27, the House of Commons entered on the great business "how to secure and preserve the King's person and the Protestant religion against the attempts of the Papists, both in the reign of his Majesty and his successors." The House came to three resolutions:—1. They resolved on a bill for banishing all Papists or reputed Papists from London and Westminster and within twenty miles of them for six months, and to confine all such living beyond twenty miles within four miles of their houses. 2. It was then carried, without a dissentient voice, on the proposal of

[1] Temple's Memoirs from 1679; Works, ii. 513.
[2] Barillon, April 28, 1679. (Archives of French Foreign Office.)
[3] Temple's Memoirs from 1679; Works, ii. 512. Henry Sidney's Diary and Correspondence, i. 2.

John Hampden, member for Buckinghamshire and son of the great Hampden, "that the Duke of York's being a Papist, and the hopes of his coming such to the Crown, has given the greatest countenance and encouragement to the present conspiracies and designs of the Papists against the King and the Protestant religion:" and Lord Russell, now a Privy Councillor, who had spoken out in the debate with warmth, was appointed to carry this resolution to the Lords for their concurrence. 3. It was ordered that the Committee of Secrecy, appointed to prepare evidence against the five Lords in the Tower, prepare an abstract of such matters as concern the Duke of York in connexion with the Popish Plot in the papers which are in their possession. After their passing of these resolutions the general debate was adjourned to the following Wednesday. The Duke of York had been the burden of this debate, and strong things had been said. Barillon was much struck with a speech of Bennet, who was specially in Shaftesbury's confidence, and who had said that "there was no time to seek for means in the future, which must be uncertain and distant, and that it would be much surer and more advantageous if the King of England had already a son capable of succeeding him." Barillon adds that he hereby designated the Duke of Monmouth.[1] Colonel Birch had suggested that a bill should be brought in that "at the fall of

[1] Barillon, April 28 (Archives of French Foreign Office). Bennet's speech is reported by Anchitel Grey: "If the King have a son, then we are out of fear: but if a way cannot be found out that the King may have a son, then we are to go another way to work." Bennet spoke a second time in the debate. "If you will have the Duke of York come to the Crown, as other Kings do, speak plain English. If you intend that, I will prepare to be a Papist." (Parl. Hist., iv. 1126.)

the King by any violent stroke (which God forbid!) no person come to the Crown of England till that be examined." Lord Russell had said: "If we do not something relating to the successor, we must resolve, when we have a Prince of the Popish religion, to be Papists or burn; and I will do neither." When Wednesday, April 30, to which the debate was adjourned, arrived, the King went to the House of Lords, and addressed the two Houses. His speech was short. He reminded Parliament that time was slipping away, and pressed on them the prosecution of the Plot, the disbanding of the army, and the making provision for an adequate supply. He then left it to the Lord Chancellor to communicate to them various expedients for limiting and restraining a Popish successor, without defeating the Duke of York's right of succession. The King's and Lord Chancellor's speeches were at last taken into consideration on May 4, again a Sunday. A long debate, with many violent speeches, ended in a resolution for a bill "to disable the Duke of York to inherit the imperial Crown of England." This was followed by a resolution passed unanimously, "that in defence of the King's person and the Protestant religion, this House doth declare that they will stand by his Majesty with their lives and fortunes, and that, if his Majesty come to any violent death (which God forbid!), they will revenge it to the utmost upon the Papists." An address, founded on this resolution, was presented to the King on the nineteenth, and he replied to it with cold courtesy. The second reading of the bill for disabling the Duke of York was carried on the twenty-

first by a majority of seventy-nine.[1] The Commons had in the meantime voted Lord Danby's pardon illegal and void, and had demanded judgment against him at the bar of the House of Lords, and they had also made an address for Lauderdale's removal from the King's councils and presence and from all offices. After the second reading of the Exclusion Bill, they set on foot an inquiry into the payments for secret service made to members of the late Parliament, and were prosecuting it with eagerness, when this inquiry and the Exclusion Bill, and the trial of the five Peers, on which there had been many differences between Lords and Commons, were all stopped by a sudden prorogation on May 26.

Sunderland, Essex, Halifax, and Temple, who had constantly met in private during the sitting of the Parliament for consultation, had agreed to advise the King to propose to the Privy Council a prorogation of the Parliament. In the end, the King, on the advice of Sunderland, Essex, and Halifax, formed a sudden resolution to prorogue, without consulting the Privy Council, which he had but one month before announced to Parliament that he would be advised by in all weighty and important affairs.

This prorogation excited, says Temple, "very great resentment of both Houses, and such rage of my

[1] Barillon wrote on May 22: "Yesterday the setting aside of the King's marriage was spoken of, but no resolution on it come to. That is a matter which will come on in its turn, and of which use will be made according to the interests of the heads of the chief cabals" (Archives of French Foreign Office). Grey reports only one speech of May 21, a speech of Clarges, which was against the bill. He says, at the end of Clarges's speech, "Very little was said in answer to this, but a great cry, 'The Bill, the Bill!'"

Lord Shaftesbury that he said upon it aloud in the House that he would have the heads of those who were the advisers of this prorogation."[1]

The King, before proroguing, gave his assent to a bill entitled "An Act for the better securing the Liberty of the Subject, and for preventing of Imprisonments beyond the Seas," which is better known to us by the title of the Habeas Corpus Act. Shaftesbury has always had the credit of carrying this Act through Parliament; and those who have been unwilling to give him other praise have joined in acknowledgment of this as a great service rendered by him to his country. The Act is said, on good authority,[2] to have been drawn by Sir William Jones, the famous lawyer, who had been for some years Attorney-General, and resigned the office in 1679, to be free to act vigorously with the Opposition. Measures for rendering more effectual the ancient remedy at common law of *habeas corpus* had been successively proposed in vain in Parliament since the year 1668. Shaftesbury's zeal on this subject had doubtless been whetted by his own experience, and by the study of the whole subject, to which he had been impelled on the occasion of his imprisonment and fruitless application to the King's Bench, when he had been committed, by order of

[1] Memoirs in Works, ii. 519. Algernon Sidney writes to H. Savile, June 2: "No man will avow having been the King's counsellor in this business; and some wonder that his Majesty, in constituting the Privy Council, having promised that he would have no Cabinet Council, but that he would in all things follow their advices, next unto those of his great Council the Parliament, should so suddenly prorogue that great Council without so much as asking the other. This fills men with many ill humours."

[2] The authority is Narcissus Luttrell, a diligent political observer of the time, in a MS. note in his copy of "Absalom and Achitophel."

the House of Lords, to the Tower in 1677. It has been well explained by Mr. Hallam, that this Act did not enlarge an Englishman's liberties: it provided better and great securities for the enjoyment of liberties already sanctioned by law. "It was not," to borrow Mr. Hallam's language, "to bestow an immunity from arbitrary imprisonment, which is abundantly provided in Magna Charta (if, indeed, it were not more ancient), that the statute of Charles II. was enacted; but to cut off the abuses by which the Government's lust of power and the servile subtlety of crown-lawyers had impaired so fundamental a privilege."[1] The Act provided that, when any one is committed for any crime, except treason or felony, he may complain, during vacation, to the Lord Chancellor, or any of the judges, who, on sight of a copy of the warrant, or on an affidavit that a copy is denied, shall grant a *habeas corpus* directed to the officer who has the prisoner in custody, commanding him to bring up the body within a time not exceeding twenty days. A gaoler refusing a copy of the warrant, or not obeying the writ, is made liable to a penalty of 100*l.*; and a judge denying a *habeas corpus*, according to the Act, is made liable to a penalty of 500*l.*, to be sued for by the person injured. The Act prohibited, by very severe penalties, the sending of any Englishman as a prisoner into Scotland, Ireland, Jersey, Guernsey, Tangier, or any place beyond the seas which belongs to English dominion. Further, it was provided that any person committed for treason or felony, plainly

[1] Constitutional History of England, iii. 17; and see Broome's Constitutional Law, pp. 218—222.

expressed in the warrant, may, unless indicted in the next term, or at the next session of general gaol delivery after commitment, be, on application to the Court, released on bail, unless it shall appear that the witnesses for the Crown could not then be produced; and if he should not be indicted and tried on the second term or second sessions of general delivery, that then he shall be discharged. Such were the leading provisions of Shaftesbury's famous Act. The best commentary on its efficiency is a speech of the Duke of York to Barillon in the following year, that no government can exist where the law prevents any man from being kept in prison without trial more than a day.[1]

There appears to be good reason to believe that the Habeas Corpus Act was passed on the last day of the session by a mistake and a trick. There had been, at the last, differences between the Lords and the Commons as to amendments introduced into the bill of the Lords, and a division was taken in the Lords, on the day of the prorogation, on the question whether the Lords should then immediately agree to a proposal of the Commons for a free conference. The question was carried in the affirmative. Had it not been then so carried, the bill would have been lost. Bishop Burnet relates this story: "Lord Grey and Lord Norris (Norreys) were named to be the tellers; Lord Norris, being a man subject to vapours, was not at all times attentive to what he was doing; so a very fat Lord coming in, Lord Grey counted him for

[1] Archives of French Foreign Office.

ten as a jest at first; but seeing Lord Norris had not observed it, he went on with this misreckoning of ten; so it was reported to the House, and declared that they who were for the bill were the majority."[1] Incredible as this story would at first sight seem, it derives support from an entry in a manuscript journal of the Lords that the numbers in the division were fifty-seven and fifty-five, making in all a hundred and twelve, while the Journals record the presence of only a hundred and seven members that day. Five more, therefore, were made to vote than the total number of Peers in the House at any time of that day.[2] Mr. Martyn improves the story by telling that, when the numbers were reported, the opponents of the bill showed surprise, and that Shaftesbury, seeing that there was a mistake, immediately rose, and made a long speech on some other subject, and several Peers having gone in and come out while he was speaking, it was impossible to re-tell the House when he sat down.[3]

The following letter from the Duke of Ormond, Lord Lieutenant of Ireland, to Shaftesbury, congratulating him on his appointment to be Lord President of the Council, expressing his desire for a good understanding and his good opinion, and referring apologetically to the intemperate attack which his son, the Earl of Ossory, had made two months before, is one of much interest. It appears from it that Shaftesbury had privately

[1] Own Time, ii. 250.

[2] Speaker Onslow, in a note on this passage of Burnet, refers to the minute-book of the Lords for confirmation of the story, without giving the numbers. I have ascertained the numbers by examining the minute-book.

[3] Martyn's Life, ii. 221.

declared that he had not had the intention of reflecting personally on Ormond. Shaftesbury and Ormond had often differed, but they had cordially co-operated against a French policy, and in behalf of Protestantism, in the latter part of Shaftesbury's Chancellorship, and Ormond had been one of those who lamented Shaftesbury's dismissal.

"DUBLIN, *May* 25, 1679.

"MY LORD,—His Majesty having been pleased, amongst other affairs of greatest importance to his service, to order that the concerns of this his kingdom should be consulted of and receive despatch from his Council of England, where your Lordship presides, I hold it proper for me, considering the place I hold, not only to congratulate your access to that great station, but to beseech your Lordship (as other great things in agitation may permit) to call for those representations and despatches which have been transmitted from hence, since my last coming to this Government; whereby the true state of this kingdom will best appear, and whereby I hope it will also appear that I have not been wanting (as far as the means that were in my power would reach) to provide for the safety of his Majesty's Government, and good interests, nor slow in representing defects or proposing remedies, when your Lordship shall be possessed of the papers. I mean I do not doubt but you will find cause to propose the taking of some resolution, and giving directions upon them, and I promise myself they will be most prudent and effectual, now that the ancient and prosperous methods of Government are resumed.

"My Lord, besides the public end designed in this letter, I am desirous to take occasion to offer your

Lordship the surest and most authentic way of information which I think you can have of proceedings here, past and to come, whereof I suspect you have had misrepresentations as to what is past, though I must at the same time confess that by what I have seen as spoken by your Lordship in relation to Ireland (which gives me the suspicion), I may well conclude you did not give full credit to the intelligence you had received, as it might reflect on me, and I am in this so far satisfied that I profess, if I had been present when some expressions fell from your Lordship in the Lords' House concerning this kingdom, I should not have understood or answered them, as they were understood and answered; yet the conjuncture, my circumstances, and course of life considered, I cannot be much offended at the mistake or transport of a near relation, who might imagine I was glanced at, in which of all the things in the world he knew I was most tender in, and valued myself most upon, and I take the liberty to believe that, supposing the case your own, your Lordship would have the same indulgence for a son of yours. I should not have given your Lordship the trouble of so many lines on this subject, but that I have been assured you have been pleased to say you had not any thought to my prejudice in that discourse, and if I did not think myself highly obliged by such a declaration, and if I were not very desirous to be esteemed, and really prepared to be,

"My Lord,

"Your Lordship's most humble and most obedient,

"ORMOND."[1]

In the very great difficulty with respect to the Duke of York, the danger that might arise from his succession,

[1] This letter is from the papers at St. Giles's.

and the probable necessity of his exclusion from it, the members of the Privy Council, who now chiefly influenced the King and managed the course of business, turned their thoughts to the Prince of Orange. Temple was naturally one of these: he was regarded especially as the Prince of Orange's friend. The present idea was to urge the Prince to come over to England in time for the expected meeting of Parliament in October, and then, having been made a Peer and Privy Councillor, take his seat both in the Council and the House of Lords. Sunderland seems to have originated this scheme: Essex, Halifax, and the Duchess of Portsmouth all entered into it. They had a confidential and zealous ally in Henry Sidney, afterwards Earl of Romney, a younger brother of the famous Algernon, who went in July as Envoy to the Hague, for the express purpose of making a treaty of alliance with Holland for a guarantee of Spanish Flanders to Spain, and who quickly gained the cordial friendship of the Prince. It is remarkable that Sir William Temple, in his Memoirs, is entirely silent as to the present design, which he zealously promoted, for making the Prince of Orange prominent and popular in the English mind, and for substituting him, by some expedient or other, for the Duke of York as the successor to the throne. The information on this subject has been obtained comparatively lately by the publication of Henry Sidney's Diary and Correspondence, a work which throws much new light on English history of this time.[1]

[1] "Diary of the Times of Charles II., by the Hon. Henry Sidney, afterwards Earl of Romney, including his Correspondence with the

Sunderland had hopes of bringing Shaftesbury into this scheme for inducing the Prince of Orange to come over to the Privy Council and the House of Lords. Henry Sidney was instructed by Sunderland to tell the Prince of Orange that Shaftesbury was not one of Sunderland's party, but that he was a good tool to work with, and that nothing could be done in a parliament without him. Sidney was also to tell the Prince that he must make up his mind quickly, and that, when he came to England, he must keep a table and invite Parliament men, which would delight them.[1] It was part of the scheme to endeavour to clear the way for the Prince of Orange by getting the Duke of York made King of the Romans.[2] Sidney Godolphin, one of the Commissioners of the Treasury, and soon to be made a leading Minister, and Sir Henry Capel, First Commissioner of the Admiralty, were let into the secret, and warmly approved of the plan.[3]

Sidney called on Shaftesbury on July 17, to take leave of him, and thus reports his conversation: "He told me he hoped I would make a good alliance between us and the Dutch, that we might be able to make some resistance to France. As for the Prince of Orange, he said if he would continue a good Protestant, we would do him right. He commended Lord Sunder-

Countess of Sunderland and other distinguished Persons at the English Court," &c. Edited, with Notes, by R. W. Blencowe, Esq., M.A. 2 vols. 8vo. 1843.

[1] H. Sidney, vol. i. pp. 19, 21.

[2] Ibid. vol. i. pp. 22, 23. There was a plan for making the Duke of York King of the Romans, after marrying him to an Austrian Archduchess, as far back as 1672, made known to Shaftesbury by a Saxon gentleman named Schrotter. (Martyn's Life, ii. 6–14.)

[3] Ibid. vol. i. pp. 21, 27.

land, but spoke slightly of Essex and Halifax." Halifax reciprocated Shaftesbury's bad feeling: their friendship had turned to bitterness. "Afterwards," says Sidney, "I went to Lord Halifax, and telling him what had passed, he said he had differed from Lord Sunderland, for that he was confident there never would be any good done with that man."[1] Halifax boasted himself a Trimmer, and it was not Shaftesbury's nature to trim. On June 25, Henry Sidney recorded in his Diary that Shaftesbury had spoken very kindly of Sunderland, and that Sunderland had told him how necessary it was to take Shaftesbury into confidence.[2] A temporary coolness between Shaftesbury and Essex was probably caused by the unfavourable disposition of the latter towards Monmouth's pretensions.

A rebellion in Scotland in June had led to the despatch of Monmouth to that country, in chief command of an army for its suppression; he quickly succeeded in putting it down, and returned to England early in July, with much accession of honour and popularity. A plan, which the King favoured, and which Monmouth and Shaftesbury eagerly promoted at this time, of raising a small troop of guards for the King's person, to be commanded by Monmouth, was relinquished chiefly in consequence of Essex's strong opposition.[3]

The public was surprised in July by the dissolution

[1] H. Sidney, vol. i. p. 28.
[2] Ibid. vol. i. p. 14.
[3] Temple's Memoirs, in Works, ii. 523. A strong letter of Essex to the King, remonstrating against the project of guards, is printed in Dalrymple's Works (ii. 231), and in Henry Sidney's Diary, &c. (i. 36).

of the new Parliament, elected in January, and prorogued in May. Temple appears to have been the first to recommend this measure to the King.[1] His view was adopted by those with whom he was engaged in confidential consultations, Sunderland, Essex, and Halifax. It was arranged among them, Temple says, that information of the intention to dissolve should be given to all the members of the Privy Council on whose support the King might reckon before the meeting of Council, at which dissolution was to be proposed. Opposition from Shaftesbury and his friends was expected, but they had no doubt of obtaining the concurrence of a large majority. When the Council day came, and the Council met, no Privy Councillor had been informed. The opposition to a dissolution was general and strong. The Lord Chancellor, the Lord Privy Seal (Anglesey), and the Marquis of Worcester, were not less vehement than Shaftesbury in objecting. But the King, encouraged by some words of Temple to the effect that the King was the best judge of the possibility of his agreeing with this Parliament, disregarded the opposition of the majority, and ordered the Lord Chancellor to draw up a proclamation for a dissolution of the Parliament and for summoning another in October. "The Council broke up," says Temple, "with the greatest rage in the world of the Lord Shaftesbury, Lord Russell, and two or three more, and the general dissatisfaction of the whole Board."[2]

[1] H. Sidney, June 27, 1679, vol. i. p. 16.
[2] Temple's Memoirs, in Works, ii. 527. H. Sidney, vol. i. pp. 21, 23, 25.

The Parliament had been prorogued in May without consulting the Privy Council, and it was now dissolved in July against the Privy Council's advice. So soon did Charles trample under foot his late promises and his new plan, so ostentatiously proclaimed only in the preceding April, of government by the advice in all things of his reformed Privy Council. Shaftesbury is said to have proclaimed, as he had done on the occasion of the prorogation in May, that those who advised the dissolution deserved to lose their heads.[1]

The new Parliament was summoned to meet on October 7; but its meeting was afterwards deferred by successive prorogations, and it did not assemble for business until the twenty-first of October, 1680, fifteen months after the dissolution.

Near the end of August the King was taken suddenly ill, and there was for a short time alarm for his life. His chief advisers urged that the Duke of York should be immediately sent for. Sunderland, Essex, Halifax, Laurence Hyde, and Godolphin, met at the Duchess of Portsmouth's and agreed on this advice. Temple was not admitted to the secret. The Duke was written to to come over instantly, but to come on his own responsibility; and it was intimated to him that, if the King recovered, he would be under the necessity of returning into exile. Dread of Shaftesbury's and Monmouth's proceedings, if the King should die, caused the Duke of York to be thus sent for. Sunderland afterwards told Henry Sidney that their designs had

[1] H. Sidney, vol. i. p. 25.

become past endurance, and that he and his friends feared that, if the King died, Monmouth would make great trouble, either by setting up for himself or by proclaiming a Commonwealth.[1] Temple, who bitterly resented his not having been consulted about this step and entirely excluded from his friends' confidence on this occasion, says that Essex and Halifax were much alarmed at Shaftesbury's violent threats against themselves, if the King's death in the Duke of York's absence should enable him to have everything his own way.[2] The King quickly recovered, and the Duke of York returned to Brussels. But Monmouth also was now ordered by the King to leave England, and was required to resign the office of Lord General. Monmouth very reluctantly obeyed the King's commands, but his friends persuaded him to do so, representing that his banishment would excite sympathy and strengthen his hold upon the nation. He retired to the Hague, where he arrived in the end of September. The Prince of Orange received him kindly; but told him that, if he was aspiring to the Crown, he could not be his friend, but that in everything else he would.[3] The Prince of Orange thought that he had now better not go into England; while Monmouth was there, the Duke of York would have favoured his going, but now his father-in-law might suspect him of designs for himself.[4] The Prince of Orange told Sidney that he would advise the King by all means to agree with the

[1] H. Sidney, i. 176.
[2] Temple's Memoirs, in Works, ii. 533.
[3] H. Sidney, i. 156, Sept. 29, 1679.
[4] Ibid. i. 142, Sept. 18.

Parliament, and would recommend the passing of an Act to exclude all Roman Catholic Kings, without naming the Duke of York, and that, if he were a member of the House of Lords, he should vote for such an Act.[1] Sidney had not long before said to the Prince that he thought the monarchy in England irrecoverably lost, unless he (the Prince) interposed to save it. The Prince then expressed his conviction that the Duke of York would never have the Crown, and manifested clearly his own desire to have it.[2]

The King had for a considerable time, according to his incurable ways, been privately busy with the French Ambassador, and, while Sidney was trying under orders to negotiate a treaty with Holland, had been endeavouring to get money from Louis XIV. on conditions contrary to the proposed Dutch Treaty. Charles desired above all things to be freed from the necessity of convoking Parliament. The negotiation had begun in the end of July, initiated by Charles. The Duchess of Portsmouth was at first the only depositary of his secret. Later the secret was communicated to Sunderland; and he and the Duchess of Portsmouth were employed by Charles to negotiate a treaty with Barillon. The Duke of York, at Brussels, was informed of the negotiation, and sent Churchill, the future Duke of Marlborough, to Paris to promote it. In the end of September, Laurence Hyde was made a party to the secret negotiation. By the proposal of treaty, as settled early in October, Louis was to pay Charles one million

[1] H. Sidney, i. 143, Sept. 19.

[2] Ibid. i. 130, Sept. 9.

of francs a year for three years; and Charles, reserving to himself a power of calling Parliament together during these three years, if he should find it absolutely necessary, promised to dissolve or prorogue it to prevent any resolution prejudicial to his alliance with Louis. The French King bound himself not to attack Holland or Spanish Flanders during the three years; and the English King promised not to make any treaty or alliance with any Prince or State without the consent of the French King, and to renounce immediately all treaties hitherto made inconsistent with the friendship of Louis, who in return was required not to make, during the three years, any treaty to the prejudice of the King of England.[1] Sunderland and Hyde were very much impressed by the danger to any Minister who should sign this treaty, and insisted upon its being either a verbal engagement or signed by the King. In the end the treaty was not concluded. A proposal from Barillon to insert words explaining the French King's proposed engagement to make no treaty to the prejudice of the King of England as meaning only "not to make any offensive league" against him, was resented by Charles and his confidential advisers, and led to the breaking off of negotiations by Charles in the end of November.[2]

But in the meantime, in October, Charles, confidently relying on the completion of this treaty, gave the Duke of York permission to leave Brussels and go to reside in Scotland, coming to London on his way; and he also prorogued Parliament, which was to meet on

[1] Dalrymple, ii. 235—243. [2] Ibid. iii. 242.

October 7, till January 26, and dismissed Shaftesbury from the office of Lord President of the Council. This dismissal was unexpectedly announced on October 15, the same day on which Parliament was prorogued. Shaftesbury was now no longer a member of the Privy Council.[1] He was succeeded as Lord President by the Earl of Radnor, who had been very lately elevated to that rank and title, but who is better known as Lord Roberts, and as one of the peers who fought with the Parliament, five-and-thirty years before, in the Civil War.[2]

Shaftesbury had been for some time absent from London, in September. Barillon wrote on September 15: "Lord Shaftesbury is still in the country. It is not known what will be his opinion about what has happened to the Duke of Monmouth. What this Lord will do may be of great prejudice, for if he thinks he will be supported by the nation, and hopes that the people will not abandon him, it is unlikely that he will give the lie to his past life, and approve of Monmouth's disgrace, for the strongest thing said against Monmouth is his intimate connexion with Shaftesbury."[3] Shaftes-

[1] The entry in the Privy Council Book, October 15, 1679. is, "The Earl of Shaftesbury's name was struck out of this list by his Majesty's command in Council." Lord Macaulay has incorrectly said that Shaftesbury resigned (Hist. of England, i. 253).

[2] Lord Roberts had been made an Earl in July. He had latterly acquired the King's favour by support of the Court. Algernon Sidney writes, June 2, 1679, that Roberts expected to replace the Duke of Ormond as Lord Lieutenant of Ireland. Barillon mentions him, on May 30, as then expected to succeed Shaftesbury as President of the Council, who, it was thought, would resign after the prorogation of the Parliament without consulting the Privy Council. "But," Barillon adds, "the King of England wishes to follow the advice of Shaftesbury, and purposes to avail himself of his influence in order to appease the discontent caused by the prorogation." (Archives of French Foreign Office.)

[3] Archives of French Foreign Office.

bury returned to town about the twenty-fourth of September.[1] Barillon mentions that he had, on October 5, called together his friends in the Privy Council to endeavour to induce them to remonstrate with the King against the Duke of York being permitted to leave Brussels for Edinburgh. No resolution to act, however, was taken.[2]

The plot known as Dangerfield's and as the Meal-Tub Plot came to light about the time of Shaftesbury's removal from the Presidentship of the Council. This was a plot for falsely charging a scheme of conspiracy against the King on a number of leading statesmen viewed unfavourably by the Roman Catholics, and including Shaftesbury, Monmouth, Buckingham, Essex, and Halifax. Dangerfield, a man of infamous character, also known as Willoughby, and Mrs. Cellier, a Roman Catholic midwife and abandoned woman, were the prime movers of this vile attempt to discredit and injure the leaders of the Protestant party. The name of the "Meal-Tub Plot" was given to this imposture, because the written scheme of the conspirators was discovered at the bottom of a meal-tub in Mrs. Cellier's house. Shaftesbury believed that Dangerfield, who came to his house several times, visited him in order to assassinate him.

[1] Luttrell's Brief Historical Relation of State Affairs, vol. i. p. 22. Barillon, October 2, 1679, in Archives of French Foreign Office. "Lord Shaftesbury," writes Barillon, "is returned, and appears to have as much credit with the people as ever. He is thought to stand very ill at Court." The following is in the same despatch :—"Nothing is more in fashion here than to take letters of pardon. Lord Lauderdale has taken them, and has even included the crime of rape to shelter himself from everything that might hereafter be done against him. It is said that Lord Sunderland has also letters of pardon, but I am not sure."

[2] Barillon, October 6, in Archives of French Foreign Office.

He told Henry Sidney the story of intended assassination.[1] Dangerfield himself stated in print that he called on Lord Shaftesbury at the instigation of the Papists to kill him, and, being left alone for some time in a room in his house, stole two letters from Sir Richard Buistrode to Shaftesbury, which he afterwards made use of to show that he had had intercourse with Shaftesbury, likely to gain for him a knowledge of Shaftesbury's plans. He afterwards, in a confession made in prison, said that he had been offered 500*l.* by the Earl of Powis to kill Shaftesbury, and that he had agreed to do so, and that his courage had since failed him, and that the Earl of Peterborough had taunted him with cowardice. The word of a villain like Dangerfield cannot be believed, and no one would condemn any one on his statement. But it is a fact that he was in Shaftesbury's house and stole from it the two letters of Bulstrode. He was villain enough to hire himself for murder. Shaftesbury was persuaded that the object of Dangerfield's visits to him was assassination. Mrs. Cellier also is said to have endeavoured to repair Dangerfield's failure, and to have obtained access to Shaftesbury in his house with the intention of stabbing him, and to have been foiled by Shaftesbury's vigilance and presence of mind.[2] Without adopting as necessarily true statements of Dangerfield and of the author of "Rawleigh Redivivus," attempts to assassinate Shaftesbury by vile mercenaries instigated

[1] Sidney, i. 179, November 5, 1679.

[2] Rawleigh Redivivus, p. 145. In this work there is a long narrative of Dangerfield's and Mrs Cellier's designs and proceedings. See Martyn's Life, ii. 225–8. Mr. G. W. Cooke, the editor of Martyn's Life, rejects these stories as entirely fabulous, but without justification.

by Roman Catholics were very probable, and there is no doubt that Shaftesbury believed in designs to murder him.

Francisco Faria, a Portuguese Jew, who was employed as interpreter and translator by a Portuguese ambassador in 1679, stated in the course of a long written narrative delivered to the House of Lords on October 28, 1670, that in the autumn of 1675 his employer, the ambassador, had suggested to him the getting Oates, Bedloe, and Shaftesbury out of the way; and that on his asking how Shaftesbury could be killed, the ambassador said, "Lord Shaftesbury goes often into the country, and I know you are excellent at hand-granadoes; you shall throw one of them into Shaftesbury's coach, which will destroy all that are in the coach upon the breaking; and you and the company shall also have fire-arms to kill, if the other do not full execution." Faria added that the ambassador said he had provided two others to join with him, but he did not name them, nor the reward that was to be given.[1] There is nothing impossible or even improbable in this story.

The following is an interesting letter from the papers at St. Giles's, equally creditable to Shaftesbury's chaplain, the Rev. John Highmore, by whom it is written, and to Shaftesbury, to whom it is addressed. This letter shows indirectly the amiable character of Shaftesbury, and the respect felt for him by an evidently high-minded clergyman. It will be observed that he refers to Shaftesbury's late escape from the design of the Papists, which is of course Dangerfield's Plot.

[1] Lords' Journals, October 28, 1680.

"*October* 31, 1679.

"My Lord,—Though my house is now to a small matter finished, yet it will not be fit for any one to live in it till about Lady-day. In the meantime I will pay Mr. Cheswill at the rate of twenty pounds a year for my diet, which I hope your Lordship will be pleased to accept of. I thank God, through your bounty to me, I am well enough able to do it now my building is over, and since you have only servants here I know no absurdity in my desire, having been burdensome to you too long already. It will be a great favour to me, and no loss to your Lordship. If I thought it, I would offer more, being unwilling for so short a time to remain out of my parish, and I cannot with any ease to my mind remain longer upon you *gratis*. By that time I may hope to see better times and greater encouragement for a minister to marry than now there is, for I would not make a woman miserable. What becomes of myself I am not so solicitous. I believe they were a sort of infidels who married and were given in marriage till the flood came upon them. My Lord, I thank God with you that the design of the Papists against your life and the Protestants was frustrated. God Almighty seems to have infatuated them and to cause them to be taken in their own craftiness. I hope the same God who hath hitherto delivered us will still preserve us. I beg your Lordship's pardon for this trouble, and hope you will not take it ill for one who will truly endeavour in all things to approve himself

"Your Lordship's most humble

"and obedient servant,

"J. Highmore."

Essex, Halifax, and Temple had by this time become, for various reasons, extremely dissatisfied with the

King's proceedings. Essex and Temple had opposed the late prorogation. Essex now resolved to give up his place of First Commissioner of the Treasury. It was offered to Halifax, who refused it. It was then pressed upon Shaftesbury, who refused it likewise. We find then that within a month of Shaftesbury's abrupt dismissal from the Presidentship of the Council, Sunderland was endeavouring to persuade him to come back to office as the First Commissioner of the Treasury. Shaftesbury told Sunderland, when he first applied to him, that the King must be advised to part both with the Queen and Duke of York, that is, to divorce the Queen in order to make a new marriage, and consent to the Duke of York's exclusion.[1] Then Sunderland came to the conclusion that he could do nothing with Shaftesbury; but he returned to the charge, and Henry Sidney, who was for a time in London, engaged Montagu to use all his influence with Shaftesbury to induce him to accept. But Shaftesbury still refused.[2] Essex retired from his post on November 29, and was succeeded as First Commissioner by Laurence Hyde. Sidney Godolphin, one of the Commissioners of the Treasury, was now made a Member of the Privy Council. Halifax was very much displeased with the offers made to Shaftesbury;[3] and the Prince of Orange was amazed when Sidney told him of them.[4]

Halifax now again mentions to Sidney that it was

[1] H. Sidney, i. 181, November 6.
[2] Ibid. i. 185, November 12, 13. Barillon wrote on March 13: "There is still a cabal at Court which endeavours to induce the King to make terms with Shaftesbury." (Archives of French Foreign Office.)
[3] Ibid. i. 181, November 7. [4] Ibid. i. 155, November 25.

desirable that the Prince of Orange should come over; and Temple, more than once, declared that the Prince should join with Monmouth.[1]

Halifax, who had not held office, but was simply a member of the Privy Council, retired into the country soon after Essex's resignation of the First Commissionership of the Treasury, and made a long absence. The chief advisers were now Sunderland, Laurence Hyde, and Sidney Godolphin. These three, comparatively young Ministers, and not remarkable for ability, obtained the nickname of the Chits. A very clever political squib in verse, which has been sometimes wrongly ascribed to Dryden, and which was probably written by the witty and satirical Lord Dorset, gave them this nickname:—

"Clarendon had law and sense,
Clifford was fierce and brave;
Bennet's grave look was a pretence,
And Danby's matchless impudence
Helped to support the knave.

"But Sunderland, Godolphin, Lory,
These will appear such chits in story,
'Twill turn all politics to jests,
To be repeated like John Dory
When fiddlers sing at feasts."[2]

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[1] H. Sidney, vol. i. pp. 182, 186, 190, November 10, 14, 16. On the last of these occasions, Sidney's entry in his Diary is very curious: "We talked of the Prince and the Duke of Monmouth being of a party. He [Temple] said how strong they would be: as to the Prince, he said, there was nothing for him to do but to get a boy, and he hath given me a receipt for it."

[2] See Sir Walter Scott's remarks on the authorship of this poem in his edition of Dryden's Works, vol. xv. p. 273. He rightly rejects the story of Dryden's authorship. "The three Chits go down to Althorpe, if they can be spared," writes Lady Russell in a letter to her husband, June 12, 1680 (vol. i. p. 60). The editor makes a strange mistake in his note, explaining the Chits as three children of Lord Leicester, who happens to be mentioned in the letter, and was brother of Lady Sunderland. Althorpe was Lord Sunderland's seat.

Near the end of November, Monmouth suddenly, and without permission from the King, returned to England. The King was furious at his return. Barillon wrote on December 1, that Monmouth was believed to have been concealed in Shaftesbury's house for three days after his arrival in London, and that his return was concerted with Shaftesbury and his party. Barillon even suspected that there was an understanding between Monmouth and the Prince of Orange, and that the latter had urged Monmouth to come over to begin to excite the people against the Duke of York. He mentioned this suspicion to the King, who did not believe that Monmouth and the Prince of Orange were acting in concert.[1] Henry Sidney records that when the Prince of Orange heard of Monmouth's departure for England he said that "it was not fair play, considering that they were acting together."[2]

There was now great agitation for a reassembling of Parliament. It stood at this moment prorogued to January 26. But it was feared that the King did not intend Parliament to meet on that day. Numerous petitions were now presented to the King, praying for the meeting of Parliament on the appointed day. Ten Peers, of whom Shaftesbury was one, signed such a petition, and went in a body, headed by Prince Rupert, to deliver it to Charles.[3] The King issued, on December 11, a proclamation for proroguing Parliament from

[1] Barillon, December 1, 1679, in Archives of French Foreign Office.
[2] H. Sidney, i. 195, November 25.
[3] The ten Peers were Prince Rupert (Duke of Cumberland), Shaftesbury, the Earls of Huntingdon, Clare, and Stamford, Lord North and Grey, and the Lords Chandos, Grey, Howard of Escrick, and Herbert.

January 26 to November 11. On the following day there appeared another proclamation denouncing tumultuous and seditious petitioning as illegal. The petitioning for the meeting of Parliament on January 26 was renewed after these proclamations with increased vigour. The King received the petitions with anger, and often replied with rudeness. He told Sir Gilbert Gerrard and others, who took a petition to him from London and Westminster, that he looked on himself as the head of the Government, and meant to do what he thought best for himself and his people.[1] Petitions from Wiltshire, Essex, and Berkshire elicited similar replies. He said to Mr. Thynne, who headed the Wiltshire deputation, "You would not take it well I should meddle with your affairs, and I desire you will not meddle with mine, especially in a matter that is so essential a part of my prerogative."[2] To the gentlemen from Berkshire he said that "they would argue the matter over a cup of ale when they met at Windsor, though he wondered his neighbours should meddle with his business."[3]

These petitions, which came from all parts of the

[1] Luttrell, i. 31, January 13, 1680. According to Barillon, the King said that the right of judging when Parliament should meet belonged to him, and he was astonished that one of the house of Gerard, which had always been faithful to him, should join the malcontents. (January 15, Archives of French Foreign Office.) This is confirmed by Sunderland writing to Henry Sidney (Diary, &c., vol. i. p. 230).

[2] Martyn's Life, ii. 230. The Dowager Countess of Sunderland gives a different version of the King's speech to Thynne: but both stories may be true. "Yesterday the rich Thynne brought a petition to the King, he said from the county of Wiltshire. The King asked him if it came from the sessions. No. If from the Grand Jury. No. Then his Majesty told him he did not take it from the county. There was Sir Walter St. John and Sir Rowland Hungerford with him; but the petition fell flat to what was expected." (H. Sidney's Diary, &c. i. 252, January 23, 1680.)

[3] Martyn's Life, ii. 230. Luttrell, i. 32, January 22.

kingdom, provoked counter addresses, which soon crowded on the King, declaring confidence in his wisdom, and abhorrence of the proceedings of the petitioners. The nation was divided between petitioners and abhorrers.

On January 26, the day to which Parliament had been formally prorogued in October, the King appeared in the House of Lords and made a short speech, explaining that when he had declared in Council his intention of not calling Parliament together till the November following, he had well considered the matter, and, so far as regarded domestic affairs, his opinion was unchanged and even strengthened, but that on account of foreign affairs he thought it prudent now to prorogue them only until April, but that he was resolved to have then a further prorogation if the condition of his allies abroad did not then require immediate succour. The Parliament was prorogued to April 15; and its meeting was afterwards deferred by no less than five more successive short prorogations until October 21, when the Parliament at last met for the first time for business, some fourteen months after its election.

Two days after the further prorogation of Parliament till April 15, the King declared in Council his resolution to send for the Duke of York from Scotland, saying that he had not found such good effect from his absence as would dispose him to keep the Duke longer away from him. After this announcement, Shaftesbury had immediately a consultation with his friends in the Council; and he addressed to them a letter of advice on January 30. The next day Lord Russell, Lord Cavendish, Sir Henry Capel, and Mr. Powle, waited on

the King to ask his permission to retire from the Council, and he replied, "with all my heart." It was matter of surprise that Essex and Salisbury did not retire also.

The following is Shaftesbury's letter to his friends which immediately preceded the retirement of the four Privy Councillors :—

"*January* 30, 1680.

"I have altered my opinion since last night, on second thoughts; and now think nothing clearer than that you ought to quit, and that presently and in a body together both for your own sakes, the nation's, and the King's service.

"You may not have so fair an opportunity again offered, which so distinctly justifies you to the world.

"Every day may engage you in new and illegal proceedings, like that of the proclamation against petitions.

"If the Duke of York shall be admitted to the council, as in Scotland, you must either quit upon that, which is a less score, or continue his fellow Councillors.

"If the Papists (of whom the Duke of York is the manifest head) shall attempt, within a few weeks, to alter the religion and Government by the assistance of the French, whose forces and provisions are ready upon the coast next us, your Lordships have continued as blind watchmen for us, and will never be received into the number of good Englishmen.

"As our affairs stand, we have no hopes of a good composure but by the weight of the nation in a manner compelling us to take right counsels. To this end, your Lordships going out together at this time extremely serves; and the sense of the body of the Protestants and sober men, made known to his Majesty by their

addresses and petitions through the whole nation, will not a little contribute.

"Those that are not for this cure must either rely on violent courses, or resolve to give up all. It can have no effect upon the Dutch treaty. The reputation of our alliance is necessary to them, and more they hope not from us. The prorogation to the fifteenth of April makes all things else impossible. Besides, the Dutch alliance is a thing in itself good and desirable; but as wholesome and nourishing meat, though good in itself, yet to a disordered stomach serves only to add to the disease, so with us, if this alliance serves to raise money, men, and ships, for our mutual defence, under the conduct of his Royal Highness, it had been much better never made. Nothing is good but what tends to set things right at home in the first place.

"Your Lordships, in particular, will never have such an opportunity to restore yourself to the nation again. The counsel of good husbandry, to live without parliaments, the counsel of dissolving the last parliament, both lie heavy upon your Lordships; and must leave you and others, in the opinion of the best men, as the worst ministers that have come yet. But you may by this convince all good men, that what is past was mistake, not malice; and they will be ready to embrace, with open arms, men of your consideration both for quality, ability, and fortune.

"Your Lordships see with what candour and clearness I deal with you. I expect the same again from you; and when you have read this paper twice, and taken out what notes you please with your own hand, that you burn it before the bearer. As you are, you serve only to delude the world with vain expectations of what they shall never find, and give the Papists an opportunity to stalk with you, and destroy us under your bellies."

About this time Henry Coventry retired on account of ill-health from the post of Secretary of State, which he had held for eight years, and he was succeeded by Sir Leoline Jenkins.

The proposed secret treaty with France had been broken off in the end of November by Charles, angry at a new demand of Louis. But Charles still hankered after a French subsidy. While Sunderland was now working for an alliance with Holland, and endeavouring to foil a French negotiation with Holland for a treaty, and while Charles himself was holding language in accordance with Sunderland's policy, he was privately beseeching Barillon to induce Louis to come forward with aid, which would make him independent of Parliament and bind him in gratitude to France. On January 29, Barillon wrote as follows to the King of France:—

"He begged me for the love of God (that is the phrase the King made use of) to represent to your Majesty that it was in your power to relieve him of his embarrassments; that you must trust him, and not think that he wishes to fail you when he takes new engagements. He said that, when the Triple Alliance was made, he long before warned M. de Ruvigny to obtain instructions from your Majesty and full powers, and that now your Majesty could stop everything that is proposed contrary to your interests, and that he would enter into the new proposed engagements only if he found he could not do otherwise; that is to say, if your Majesty was not willing to give him a larger subsidy or to make all the engagements which suited his convenience. The King of England said to me,

'Let us say no more about the past, let us think of the future. I beg the King my brother to make up his mind, and not to be restrained by the fact of my not being able at this moment to be very useful to him. But if he will put me in a state of showing my gratitude to him, no one will be more attached to his interests.'"[1]

The French King did not now care to listen to these entreaties: but still Charles did not give up hoping. Meanwhile Sunderland forced on negotiations with Holland, and despatched Ministers to Denmark and the German Protestant Courts, with a view to an alliance against France. Now Sunderland again urged the Prince of Orange's coming over. He thought it not impossible that the King might be prevailed on to agree to the Duke of York's exclusion from the succession. He, Hyde, and Godolphin endeavoured to bring about the meeting of Parliament on April 15, to which day it stood prorogued, but Charles, hoping always to persuade Louis to come to his rescue, baffled their endeavours. They wished to persuade the King to send away the Duchess of Portsmouth, but to this he would not listen. In the beginning of March, the Duke of Monmouth was privately received by the King, introduced by a new mistress of Charles, a daughter of Lord Ranelagh; and there was a reconciliation. Monmouth now declared his resolution to take up arms, if the King died, for he should conclude that he was murdered.[2]

[1] Archives of French Foreign Office.

[2] H. Sidney, vol. i. pp. 244, 258, 298, January 12, February 3, March 9, 1680.

Locke had returned to England from his foreign travels in May 1679. The following letter invites Locke to London from Somersetshire; and it may be judged from it that Locke had, since his return, spent his time chiefly in Oxford, and in Somersetshire, where he had a small estate.[1]

"LONDON, *March* 20, 1680.

"MR. LOCKE,—We long to see you here, and hope you have almost ended your travels. Somersetshire, no doubt, will perfect your breeding; after France and Oxford you could not go to a more proper place. My wife finds you profit much there, for you have recovered your skill in Chedder cheese, and for a demonstration have sent us one of the best we have seen. I thank you for your care about my grandchild, but, having wearied myself with consideration every way, I resolve to have him in my house. I long to speak with you about it. For news we have little, only our government here are so truly zealous for the advancement of the Protestant religion, as it is established in the Church of England, that they are sending the Common Prayer-book the second time into Scotland. No doubt but my Lord Lauderdale knows it will agree with their present constitution; but surely he was much mistaken when he administered the Covenant to England; but we shall see how the tripodes and the holy altar will agree. My Lord of Ormond is said to be dying, so that you have Irish and Scotch news; and for English, you make as much at Bristol as in any part of the kingdom. Thus recom-

[1] Le Clerc says that Shaftesbury had summoned Locke to England, when he became President of the Council in April 1679, but that he found, when he came to London, he could not stay there on account of asthma, "the sea-coal which is burnt in that city being so very offensive to him." It would seem from Shaftesbury's letter that he and Locke had not yet met since Locke's return to England.

mending you to the protection of the Bishop of Bath and Wells,[1] whose strong beer is the only spiritual thing any Somersetshire gentleman knows, I rest,

"Your affectionate and assured friend,

"SHAFTESBURY."

The following from the Earl of Bridgewater to Shaftesbury refers doubtless to an examination of one Thomas Alford, who had been apprehended as leader in a design of burning the Rump in the City on the King's birthday. The opponents of the Court represented this as a pretence for tumult and a new outbreak of the Popish Plot, and there were witnesses who declared that the London apprentices were excited to the movement by Lord Ossory and Lord Feversham, and that it was intended in the designed tumult to murder Shaftesbury, Essex, and others of their party.[2] This letter is interesting as showing the confidence in Shaftesbury at this time of the excellent nobleman who wrote it, as well as of Essex, who had been temporarily estranged from Shaftesbury. Lord Radnor lived at Chelsea, and was Lord President of the Council. Shaftesbury had ceased to be a Privy Councillor on his dismissal from the office of Lord President in October last.

"MY LORD,—Having missed you at your house, when I called to-night as I came home, I make bold to trouble your Lordship with this note, to acquaint you that it is the very earnest desire of my Lord of Essex and myself, that you will be pleased to come yourself to Chelsea to-morrow morning to the intended examination of the

[1] Dr. Peter Mews.

[2] Luttrell, i. 38. Life of James II. i. 589. Barillon, April 1, 1680 (Archives of French Foreign Office).

person you know of; my Lord of Essex and I have promised my Lord Radnor not to fail to come to him by ten of the clock.

"I rest, my Lord,

"Your Lordship's most humble servant,

"J. BRIDGEWATER.

"*March* 24, 1680."

In March there was also news from Ireland of an Irish plot, and Shaftesbury was very eager for investigation. Barillon describes him, in a despatch of March 22, as going the day before to the Council, requiring that the attendants should leave the room, and demanding a secret Committee, to which he might communicate information which he had received from Ireland by a special messenger. This affair was thought so important, that it hurried the King back from Newmarket. The Lord Chancellor (Finch), the Lord President (Radnor), and the Lord Privy Seal (Anglesey) proposed to send a commission of inquiry into Ireland, unknown to Ormond, the Lord Lieutenant; but this was successfully opposed by Hyde. Barillon says that some persons thought that Lord Radnor acted in concert with his predecessor, Shaftesbury.[1] It was ultimately resolved to direct Ormond and the Irish Privy Council to examine the evidence. The statements of Shaftesbury's Irish informants were that the Roman Catholics of Ireland were all ready to revolt, that the King of France would send them a powerful aid of money and of men, that the Duke of Ormond secretly favoured the movement, and that it was

[1] Barillon, March 22, 1680, in Archives of French Foreign Office.

fomented by Plunket, the Roman Catholic Archbishop of Dublin. Barillon wrote that the Court laughed at Shaftesbury's information, and treated it as one of his artifices: but, he adds, "they do not laugh at it in London." Henry Coventry spoke in the Council, on this occasion, very vehemently against Shaftesbury, and said that if his audacity was not curbed, affairs would fall into incurable confusion. Coventry's speech, says Barillon, was much praised at Court, but not praised in the City; and no member of the Council supported him.[1]

In the end of April, a rumour was spread that proof of the marriage of Charles with the Duke of Monmouth's mother, under the hand of Dr. Cosin, deceased Bishop of Durham, existed in a black box, in the keeping of Sir Gilbert Gerrard, the late Bishop's son-in-law. The King called Sir Gilbert Gerrard before the Privy Council for examination: and Sir Gilbert entirely denied the truth of the rumour. The King ultimately published a declaration in which he denied, calling God to witness, that he had ever been married to Monmouth's mother or to any woman besides the Queen.

In the middle of May the King had an illness, very similar to that of the preceding year, and there was alarm for a few days. There was great excitement in London, and Monmouth's friends were on the alert. Several meetings were held at Shaftesbury's house to consider what steps should be taken for securing the Protestant religion, if the King should die. According to Lord Grey, in what is called his "Confession,"[2]

[1] Barillon, March 29 and April 5, in Archives of French Foreign Office.
[2] Lord Grey's Secret History of the Rye House Plot, and of Monmouth's Rebellion, pp. 3—5.

a rising in the City was determined on in the event of the King's death, and some preparations made for it by Shaftesbury, Russell, Monmouth, Sir Thomas Armstrong, and himself. But the King soon recovered.

In June a treaty with Spain was concluded, by which the King of England bound himself to act with Spain for the preservation of Spanish Flanders against France.

The following short note on private affairs from Lord Holles, written in June, is a proof of his esteem and friendship for Shaftesbury. There had been litigation and bad blood between them, forty years before, about this very Damerham property in Dorsetshire, which had been wrested from Shaftesbury in his minority by Holles's father-in-law, Sir Francis Ashley, through the intervention of the Court of Wards. Holles was now eighty-two years of age, and he died in the following year:—

"My Lord,—My being in Hertfordshire, where I have been many days past, and something full of business at this place, may plead some excuse for my not telling your Lordship sooner that my small royalties, where your Lordship now is, are at your service, only I desire that Mr. Bulkely, who is at present at Damerham house, may have some liberty on that kind, who, it may be, will not long stay there, for I hear that house is disliked by him or some belonging unto him, for his being there was not sought for by me. Your Lordship may be sure of my real readiness to serve you and yours in anything that lies in my power, who am

"Your humble servant and kinsman,

"Holles."

"Aldenham, *June* 18, 1680."

On June 26, Shaftesbury and fourteen others, Peers and Commoners, went to Westminster Hall to present to the Grand Jury, then sitting in the Court of King's Bench, an indictment of the Duke of York as a Popish recusant. Those who accompanied Shaftesbury in this bold proceeding were the Earl of Huntingdon, Lord Grey, Lords Russell and Cavendish, Lord Brandon, member for Lancashire, Sir Edward Hungerford, member for Chippenham, Sir Henry Calverley and Sir Gilbert Gerrard, the two members for Northallerton, Thomas Thynne, member for Wiltshire, William Forrester, member for Wenlock, John Trenchard, member for Taunton, Thomas Wharton, member for Buckinghamshire and Lord Wharton's eldest son, Sir William Cooper, member for Hertford, and Sir Scroope Howe, member for Nottinghamshire. There was with the bill of indictment a written statement of their reasons for believing the Duke of York to be a Papist. A similar bill was to be presented at the same time against the Duchess of Portsmouth.

The grand jurors, before these bills were presented, knowing well that Shaftesbury and his friends had come to present them, went to the Judges to declare their desire for the meeting of Parliament on the day to which it then stood prorogued. Chief Justice Scroggs desired them to attend not to affairs of state, but only to the business put before them. The jurors replied that there was time enough for both, whereon Scroggs, after consultation with the other judges, discharged them.[1]

1 Barillon, June 28, Archives of French Foreign Office. Barillon reports the Chief Justice's speech to the grand jurors thus:—"I discharge you on the instant from your function of jurors, and declare you not capable of presenting or judging any matter (*instruire ni juger*)."

Thus the Duke of York and the Duchess of Portsmouth escaped on this occasion; and Scroggs and his colleagues were too glad of the pretext for discharging this grand jury.

" Barillon wrote on July 8 that Shaftesbury, having learnt that the King spoke of him and his party as rebels and seditionists, said aloud, in the presence of many persons, " The King has nothing to do but to take the trouble of punishing rebels and seditionists. We will keep within the bounds of law, and we shall easily find the means by the laws of making him walk out of the kingdom." [1]

In the beginning of August, a letter of political gossip from Locke, writing from Shaftesbury's house in London to Shaftesbury at St. Giles's, mentions a rumour that the Duchess of Portsmouth was endeavouring to bring Shaftesbury into the Government as Secretary of State in succession to Sunderland, who was expected to succeed Ormond as Lord-Lieutenant of Ireland:—

" THANET HOUSE, *August* 5, 1680.

" MY LORD,—Though Mr. Percival comes as well furnished with all the current news of the town as his, Mr. Hoskins's, and my stock put together could amount to; yet your Lordship will pardon me if I take the liberty to trouble you with one piece of news I was told to-day by one who had it whispered to him as a very true and serious secret, viz. that my Lord Sunderland was to go Lord Lieutenant of Ireland, the Duke to retire thither, and that the white staff would very speedily be sent your Lordship, and that the Duchess of Portsmouth

[1] Archives of French Foreign Office.

was soliciting it with all her endeavours. This, though it be so extraordinary that it seems fit to be put amongst huntsmen's stories, and therefore I have desired Mr. Percival to give it you as you are returning from the chase; yet it is apt to make one reflect upon what is very much believed, that there must be a Parliament, and in preparation thereunto there is already great striving amongst those who think themselves most in danger who shall be thrown to the dogs. And who can think it other than good court breeding that might become a Duke or a Duchess to strain courtesy in the case, and each desire to prefer the other as most deserving. This is agreed, that there is a great ferment working now at Court, and 'tis not everybody knows who influences. Mr. Brisbane, who is looked on as none of the most inconsiderable of men in employment, is newly turned out of his Judge-Advocate's place, and nobody knows the hand that hurt him, though it were the Commissioners of the Admiralty that visibly gave him the blow. The Duke of Ormond, 'tis believed, will certainly be sent for over, 'tis hard to conceive it should be to make way, as 'tis said, for my Lord of Essex, though he be a man of known merit, and harder that it should be to succeed to the care of Aldersgate upon occasion.[1] 'Tis certain his son's ravings in his fever plainly showed how full his head was with Tangier, and many conclude that sunk him to his grave.[2] But who knows the secrets of fate? Your Lordship has seen many a lusty undertaker go before you. My Lord Latimer,[3] 'tis reported, has his Bed-

[1] A joking reference to Shaftesbury's residence in Aldersgate Street.

[2] The Earl of Ossory, who had died July 30. He was under orders to proceed in command of an expedition to Tangier against the Moors, and it preyed on his mind that Sunderland had told the King that the preservation of Tangier was hopeless, and that Ossory's known character would save the Government from blame. He died of a malignant fever in a few days, with this grief on his mind. See Evelyn's Diary, ii. 152, July 26, 1680.

[3] The eldest son of the Earl of Danby.

chamberman's place, as my Lord Lumley has the Earl of Rochester's, whose penitential confessions I am told are speedily to be published by Dr. Burnet, who was with him till a little before his death. If what his Majesty is reported to have said to the Lord Mayor yesterday when he presented the Common Hall Petition to him be true, 'tis probable that White Hall is as little dissatisfied as the City overjoyed with Bethel's choice, for 'tis the talk, your Lordship, his Majesty said that he hoped that he might prove (as several others who had been represented to him as enemies) a very good servant, and particularly named Lawson as one who served him faithfully, and died in his service.[1] But what expectation he has already raised of himself Mr. Percival will be able to inform your Lordship at large. My Lord Russell I found not at home when I went to wait on him to-day from your Lordship. My Lady was well, and very glad to hear that your Lordship and my Lady were so. My Lady Northumberland goes not into France. I have not had the opportunity this one day that I have been in town to go and wait on Mr. Anthony. But Mr. Tanner, who was here this morning, assured me he was perfectly well. I met many of your Lordship's friends to-day who have asked me when you will be in town again, with an earnestness as if they wanted you already. I pray God preserve your Lordship in health and safety, and am,

"My Lord,

"Your Lordship's most humble and most obedient servant,

"J. LOCKE.[2]

"These present
To the Right Hon. the Earl of Shaftesbury,
at St. Giles's."

[1] Sir John Lawson, an Admiral, killed in a naval engagement in the first Dutch war, June 2, 1665.

[2] This letter was kindly communicated to me some years ago by Mr. George Hancock of Birkenhead, son of Dr. Hancock who edited Locke's translation of Nicole's Essays.

The allusion to Bethel's election is to the unusual event of a fierce contest for the two shrievalties of London, which had been a great political struggle between the Court party and its adversaries; and Cornish and Slingsby Bethel, the two Whig candidates, had been triumphantly elected.

There were at this time two parties or, in the language of the period, "cabals" at Court; Sunderland and the Duchess of Portsmouth, who were frightened, were for conciliating Shaftesbury and his friends, and Godolphin sided with them; Hyde was in sympathy and concert with the Duke of York. A newly arrived Spanish Ambassador, Don Pedro Ronquillos, who had the care of the King, urged, in the interest of his country, the appointment of Shaftesbury to be Lord Treasurer.[1]

It was determined to let Parliament meet on the twenty-first of October. The Duke of York was now urged by several of the Ministers to leave England for a time, and to consent to anything short of exclusion, but he replied that he would rather be excluded from the succession than consent to limitations which would convert the monarchy into a republic. The Lord Chancellor told Charles that, if he supported the Duke of York, he must be prepared for a rebellion, for the Duke, he said, was an offender against the laws, and the House of Commons would infallibly accuse him.[2] Towards the end of September, Sunderland was in active negotiation with Shaftesbury and Monmouth for satisfying Parliament. Radnor, the

[1] Barillon, August 26, 1680. (Archives of French Foreign Office.)
[2] Ibid., September 9.

President of the Council, Essex, Halifax, and the two Secretaries of State, Sunderland and Jenkins, went to the Duke of York in the beginning of October, saying that they did not come as a deputation from the King or Council, but of their own accord, to represent to him how desirable it was that he should go. The Duke refused to go unless the King ordered him. The King ultimately resolved to request the Duke of York to leave; and the Duke yielded, but felt indignation, and represented that he was betrayed.

Barillon, in a despatch of October 18, gives the following interesting piece of news about Shaftesbury and Russell:—"I have come to know," he says, "that Shaftesbury thinks that they should be content with the exile and exclusion of the Duke of York. But Lord Russell and some others equally violent maintain that it is better the Duke of York should remain here, and feel assured that, if he is arrested, he will lose his head. There has been a discussion between them on this subject, in the course of which Lord Russell said to Lord Shaftesbury, 'The Duke of York will not return in your time, but we who are younger have reason to fear his finding himself with power to take revenge.'" It will be new and seem strange to many to find Shaftesbury counselling moderation to Russell, and Russell urging the unwilling Shaftesbury to a course designed to lead to the Duke of York's trial for complicity in the Plot, in the hope of his execution.

Shaftesbury had been ill with fever in the middle of September, and Barillon wrote, that the concourse of people of all sorts and conditions at his house had

been great while he was ill. Luttrell records on October 9, "The Earl of Shaftesbury hath been of late very much indisposed, but is now pretty well again."[1]

At last, on the twenty-first of October, 1680, the Parliament met. The King in his opening speech took credit for the alliance with Spain which had been concluded, repeated his often-made assurances of desire for the security of the Protestant religion, and readiness to concur in any measures with that view which did not disturb the legal succession to the Crown, strongly urged a continuance of inquiry into the Plot, and begged for a supply for the preservation of Tangier against the Moors. He begged them to do what in them lay for promoting union at home, that England might be well-considered and strong abroad. The Commons immediately fell on the subject of Popery. Lord Russell brought the subject forward on the twenty-sixth; he was seconded by Sir Henry Capel in a long and elaborate speech; and the House resolved that they ought to proceed effectually to suppress Popery, and prevent a Popish successor. At the same time they resolved on an address to the King, declaring their determination to preserve and support the King's person and government, and the Protestant religion at home and abroad. On November 2, the House renewed two resolutions of the last Parliament, "That the Duke of York's being a Papist, and the hopes of his coming next to the Crown, hath given the greatest countenance and encouragement to the present designs and conspiracies against the King and Protestant religion;" and "that

[1] See also Lady Russell's Letters, i. 67—75.

in defence of the King's person and Government, and Protestant religion, this House doth declare they will stand by his Majesty with their lives and fortunes, and that if his Majesty should come to any violent death (which God forbid!) they will revenge it to the utmost on the Papists." These resolutions having been passed, Colonel Titus moved and Lord Russell seconded the appointment of a Committee to draw up a bill to disable James, Duke of York, from inheriting the Crown. It was resolved, after debate, that such a bill should be brought in.[1] The bill had passed through Committee, when a message to the Commons came from the King, reiterating his declaration that all measures for the security of the Protestant religion would be acceptable to him, if they did not interfere with the legal descent of the Crown. The royal message did not alter the determination of the Commons. The bill was passed by the House of Commons on the eleventh, and it was ordered that Lord Russell should carry it up to the Lords for their concurrence. The Commons had resolved the day before to proceed with the prosecution of the five Lords in the Tower, and to begin with Viscount Stafford.

The bill was not carried up to the Lords till the fifteenth. The delay arose from knowledge obtained by its promoters that the King was making efforts to

[1] Barillon says that there were only five or six voices against this resolution: he names Laurence Hyde, Sir Leoline Jenkins, Sir George Downing, Goring, and Musgrave. (Nov. 4, 1680, Archives of French Foreign Office.) Lady Sunderland, the wife of the Secretary of State, says that the proposal for bringing in the bill had only three Noes, and that the bill, when brought in on the seventh, had only one No. (H. Sidney's Diary, &c., ii. 122.)

procure its rejection by the Lords without giving it a reading, and from a desire to strengthen their hands by a petition to the King from the City. On July 12, the Mayor and Sheriffs went to the King as a deputation from the Common Council to thank him for having called Parliament together, and for what he had said about the Protestant religion and the Plot, and to beg him to follow the advice of his Parliament. The King thanked them for their zeal for his person and the Protestant religion: he was, he said, an Englishman and a Protestant; but he declared his astonishment at what they had said about the Parliament, for that was no business of theirs: it was their duty to provide for the quiet of the city, and his to look to the quiet of the kingdom, as he might think best.[1] The Duchess of Portsmouth and Sunderland were eager for the passing of the bill; they told the King he would be besieged in Whitehall if he did not give his consent to it.[2] The bill, having been brought into the House of Lords on the fifteenth, was immediately read a first time; and then, according to the Journals, "the House was adjourned into a Committee for a freer debate," and on the House resuming, "it was propounded that the question may be put for the rejecting this bill," and it was resolved to put this question, and on its being put, sixty-three voted for the rejection, and thirty against, and the bill was rejected. The debate in Committee had been very animated and brilliant, and all agreed in giving Halifax, who opposed the bill,

[1] Barillon, November 15. (Archives of French Foreign Office.)
[2] Barillon, Ibid.

pre-eminence in oratory on this occasion, and the chief credit of its rejection. Shaftesbury spoke often in the Committee, and Halifax always replied to him. "Lord Halifax," Barillon wrote, "stood up (*tint tête*) to Lord Shaftesbury, and answered him every time he spoke." The great feat which Halifax performed on this occasion gained for him the glowing praise of Dryden in "Absalom and Achitophel," which was published in the end of the following year:—

> "Jotham of piercing wit and pregnant thought,
> Endued by nature and by learning taught
> To move assemblies, who but only tried
> The worse a while, then chose the better side,
> Nor chose alone, but turned the balance too,
> So much the weight of one brave man can do." [1]

Barillon explains what has otherwise seemed a sudden entire change in Halifax from opposition to the Duke of York and Roman Catholics, and sympathy with the

[1] Henry Sidney's two correspondents, the Dowager Countess of Sunderland, his sister, and the young Countess, wife of his nephew, Sunderland, took opposite sides, and it is amusing to contrast their accounts. The Dowager Countess was rapt in admiration of her son-in-law, Halifax; the younger Countess, by the way, was evidently in love with her husband's uncle, Henry Sidney. The younger Countess writes, November 16: "The King acts as if he were mad. The bill was yesterday cast out of the Lords' House, and our friend [Sunderland] is in great disgrace, he giving his vote for the bill. At present Lord Halifax is the King's favourite, and hated more than even the Lord Treasurer was, and has really deserved it. For he has undone all." The Dowager Countess writes, November 19: "I am full of my Lord Halifax, and will tell what perhaps nobody else will, that a day or two before the Duke's bill was carried to the Lords one of the chief actors came to him as a friend, I suppose, to tell him, if he did speak against it, he would be impeached by the House of Commons, or an address made to the King to remove him from his great place of Privy Councillor; he answered neither threatenings nor promises should hinder him from speaking his mind. How he did it, you who know may judge: on a point, he says, he has studied more than ever he did any, and would have been glad if he could have gone the popular and safe way." (H. Sidney's Diary, &c., pp. 125-8.)

Prince of Orange to this determined and successful resistance to the Duke of York's Exclusion Bill. "He is entirely in the interest of the Prince of Orange," says Barillon, "and what he seems to be doing for the Duke of York is really in order to make an opening for a compromise by which the Prince of Orange may benefit."[1] And a few days before, Barillon had written, "He has openly declared himself some days since against all that Lord Shaftesbury had proposed. What instigates Lord Halifax is that he finds himself neglected and discredited by both parties. His object is to recover his reputation, and show that he can make himself useful to those for whom he may declare himself. I believe him to be at heart an enemy of the Duke of York, and strongly persuaded that it is necessary to exterminate the Roman Catholics."[2]

Sunderland voted for the bill, as did Anglesey, the Privy Seal. The Lord Chancellor (Finch) was absent, ill or pretending illness. Two other noblemen connected with the Court, the Earls of Suffolk and Manchester, were in the minority. Manchester was to have supped the same evening at Chiffinch's with the King, and Charles sent to bid him not to come. Of sixteen Bishops present in the House, all voted against the bill. Monmouth made a speech in favour of the bill, and Barillon says that he did not speak ill; he said nothing against the Duke of York, and spoke only of the danger to which the King's person was exposed. The House sat on this occasion to the unusually late

1 Barillon, November 23. (Archives of French Foreign Office.)
2 Ibid. November 18.

hour of eleven at night, and the King was present during the whole debate, having refreshments brought to him in a room close by. Twenty-five of the thirty who voted for the bill signed a protest against the decision of the House; among the protesters were Sunderland, Anglesey, and Essex. It is needless to say that Shaftesbury was one of those who protested against the rejection of the Exclusion Bill. Buckingham was purposely absent, and professed to be dissatisfied with Shaftesbury.[1]

The next day, the sixteenth, nothing was said or done on this vote in the House of Commons, which adjourned immediately on its assembling to the day following. But, in the Lords, there was a long debate in a Committee of the whole House to consider of heads for the effectual securing of the Protestant religion. Shaftesbury opened the debate. He said that, as the House would not take the best means of securing the State and the Protestant religion, he saw but one expedient for remedy of any sort against the evils which threatened England from a Popish King, and that was to set aside the King's marriage and marry him to a Protestant. Lord Clarendon, he said, had married the King to the Infanta of Portugal, who was known to be barren, in order to secure the succession to his own daughter's children. There were, he added, several available proofs of this. In every other Christian kingdom barrenness was cause of nullity of marriage. He said that his plan of divorcing the Queen would prevent interference with the legitimate

[1] Barillon, November 18. (Archives of French Foreign Office.)

order of succession, and that he believed no one desired to do this if it could be avoided. He therefore proposed this scheme as one which would provide a natural remedy for all the inconveniences attendant on a bill for excluding the Duke of York.[1] Halifax proposed in the Committee that the Duke of York should be banished for five years, if the King lived so long. Essex proposed an association of all the nobility against Popery.[2]

The Committee recommended such an association, and the House adopted the recommendation. The Committee further agreed to recommend that the proviso for excepting the Duke of York from the Act excluding Roman Catholics from Parliament should be repealed; and that the Duke be disabled from being Admiral in Ireland, the West Indies, or Tangier, or bearing any other office in England or Ireland, or any of their dominions. These recommendations having been adopted by the House, the Committee was adjourned to the next day. The King, says Barillon, went straight from the House of Lords to tell the Queen what had passed; and "to give a proof of his extraordinary affection for her, he seated himself after dinner in her apartment, and slept there a long time, which he has been in the habit of doing only in the Duchess of Portsmouth's chamber."[3]

The House of Lords went again into Committee of the whole House, on the seventeenth and on the nine-

1 Barillon, November 18, 1680. (Archives of French Foreign Office.)
2 Ibid. H. Sidney, ii. 126.
3 Barillon, November 18, 1680.

teenth, and the following recommendations were made and adopted on these two days:—1. That neither the Duke of York nor any Popish successor should have power over presentations to ecclesiastical benefices, as to which care should be taken that they be conferred on the "most pious and learned Protestants." 2. That the question of the Queen and the King's marriage be debated on the following Monday, the twenty-second. 3. That a Committee be appointed to examine the way of managing the Post Office in Scotland and Ireland; and that inquiry be made who are the officers in command in military offices. Proposals were made in the Committee, but not adopted, for depriving the Duke of York, when King, of the veto on legislation, for depriving him of the command of the militia, and for banishing him from England and Ireland.[1]

A despatch of Barillon supplies us with an interesting account of a discussion in this Committee:—

"Lord Halifax, wishing to undo the effect of what had been proposed by Lord Shaftesbury about the exclusion of the Duke of York and the divorce, said that all these proposals were based only on private interests, and had no object but to bring about the success of unjust and chimerical pretensions. He said much else which could only apply to the Duke of Monmouth, and he added that there were more secret and dangerous designs, and insinuated, without naming the Duchess of Portsmouth, that she had views for her son, and that she had hopes also for herself, and that it was these designs which made her shake the whole machine.

[1] Barillon, November 22, 1680.

"Lord Shaftesbury, impatient at such a speech, told Lord Halifax that he of course did not believe that the Duke of York was a Catholic, since he combated with such warmth the reasonable precaution, which the nation desired to take against him.

"To this Lord Halifax replied: 'I know that the Duke of York is a Roman Catholic; and I am one of the first who knew it, and I feared the consequences of it at the time when that Lord, who has interrupted me, affixed the seal to a declaration for establishing liberty of conscience in favour of Papists, and at the time also when that Lord was working with zeal and with success for the rupture of the Triple Alliance.'

"This answer much disconcerted Lord Shaftesbury, who did not give up pressing his point and supporting his proposals as vehemently as before.

"Some Lord represented that the remedy of divorce was very uncertain, there being no assurance that the King of Great Britain would have children by another wife. Thereupon Lord Shaftesbury rose, and pointing to the King, who is almost always by the chimney, said, 'Can any one doubt, if he looks at the King's face, as to his being capable of making children? He is only fifty. I know people upwards of sixty, who would have no difficulty in making children. The whole House laughed, and the King did the same.

"Lord Clarendon furnished also matter for much laughter, by saying, in order to combat the allegation of the Queen's barrenness, that he knew her to be like other women, that she had been pregnant, and had had a premature confinement of a child which was larger than a rabbit. The King of England said laughingly to those near him, 'I do not feel altogether pleased at Lord Clarendon's knowing so much about all my wife's concerns.'

"The Bishop of Rochester said that a marriage with a barren woman was null by laws of every sort, and that if a man bought a mare for breeding, and the vendor gave him a mule instead, he would not be obliged to pay the price." [1]

Shaftesbury had long consistently advocated the Queen's divorce as the best mode of proceeding in order to avert the succession of the Duke of York; and we learn from this despatch of Barillon that Dolben, Bishop of Rochester, supported him. Dolben was one of the loyal and zealous friends of Charles, whom Dryden has selected for special praise in his catalogue of Shaftesbury's adversaries:

> "Him of the western dome, whose weighty sense
> Flows in fit words and heavenly eloquence.
> The Prophets' sons, by such example led,
> To learning and to loyalty were bred:
> For colleges on bounteous kings depend,
> And never rebel was to arts a friend." [2]

On the seventeenth, the House of Commons resolved, without a dissentient voice, on an address to the King, humbly representing the dangerous state and condition of the kingdom; and then on another address, moved by Montagu, for the removal of Halifax from the King's person and councils for ever. This address was presented to the King on November 25; and the next day the King sent a written answer that he did not find any sufficient grounds for Halifax's removal stated, but that, whenever the House duly proved any crime against Halifax or any other of his councillors, he would leave

[1] Barillon, November 22, 1679. (Archives of French Foreign Office.)
[2] Absalom and Achitophel, lines 868—873.

him or them to their own legal defence, without interposing to protect them.

Shaftesbury did not proceed with his proposal for the Queen's divorce. In announcing that he would not persevere, he said that he believed it to be the best remedy, but that he saw insuperable obstacles to the success of his plan.[1]

Lord Stafford was brought to trial in the House of Lords on November 30, and on December 7 was found guilty of high treason by a majority of fifty-five votes against thirty-one. The King showed his eagerness for an acquittal by putting down the names of the Peers and counting the votes, and his face manifested great annoyance at the result.[2] The Lord Chancellor, with Anglesey, the Lord Privy Seal, Radnor, the Lord President of the Council, the Earls of Conway, Mulgrave, Manchester, and Oxford, and Lord Maynard, who were all more or less connected with the Court, were among those who judged Lord Stafford guilty. Sunderland and Essex were on the same side. Holles and Halifax declared him not guilty.

On December 15, the King went to the House of Lords, and addressed both Houses with a view to supply. Reminding them of his alliances with Spain and Holland, he intimated that, if Parliament would not supply him with money, they would not trust to his friendship, and would seek protection elsewhere; and he again urged the want of money for preserving Tangier. Again he declared his desire to preserve the Protestant religion, and his determination not to consent to a disturbance

[1] Barillon, November 29, 1680. [2] Ibid., December 9.

of the succession. This speech became the subject of debate in both Houses. The Commons discussed it on the eighteenth, and resolved on an address to the King, praying him to agree to a bill for excluding the Duke of York from the succession, and some other measures against Popery, and declaring their readiness, if these requests were agreed to, to grant a supply for preserving Tangier and for strengthening the fleet. In the Lords there was a long debate on the twenty-third, leading to no result. But, in the course of it, Shaftesbury delivered a long and vehement speech. Monmouth, Essex, and Salisbury spoke also very strongly, insisting on the Duke of York's exclusion as a necessity. Barillon wrote that the speeches of that day were bolder and more determined than ever, and that the Duke was unsparingly treated. The speech of Shaftesbury was immediately published; it is printed at the end of this volume.[1] When Parliament reassembled, after a short Christmas recess, complaint was made in the House of Lords of this speech, which had appeared with the title "A Speech lately made by a noble Peer of the Realm." Luttrell says that, when Shaftesbury was questioned, "he did not disown it, but said he believed he might say some such thing."[2] The Lords ordered that it should be burnt by the hands of the hangman, being a scandalous libel. It has been conjectured by some that

[1] In Appendix VI.

[2] Luttrell, i. p. 62. Barillon says that Shaftesbury denied the authorship; but this must be a mistake, he may have denied the responsibility of the publication. How could he have denied the speech before all the Peers who heard it? Barillon says: "It is very like one he made some days before, and he has distributed copies: there are some few changes of little importance." (January 3, 1681, in Archives of French Foreign Office.)

the speech was never spoken, and that so bold a speech could not have been uttered in the House of Lords. Barillon's despatch, however, places it beyond doubt that such a speech as published was delivered by Shaftesbury in the House of Lords. Barillon quotes parts of it which correspond to passages in the published speech. He quotes an allusion to the Duchess of Mazarin as Sempronia in Catiline's conspiracy.[1] He gives the end of the speech in these words, clearly a paraphrase of the last sentence as printed:—"The King hears us: he is well enough informed of the state of affairs; he knows the remedies that should be applied, and if he does not apply them, it will be his fault, not ours. We have nothing to reproach ourselves with, and we are not responsible for what will happen." The words given by Barillon are, indeed, stronger than the corresponding passage of the printed speech. The meaning, said Barillon, is that there will be a revolt, if the Exclusion Bill is not passed and Parliament is dismissed.[2]

On the seventh of January the King sent to the Commons, by message, a reply to their address, making supply conditional on his agreeing to the Exclusion Bill. He refused assent to this condition. The Commons, after a long debate, passed a series of resolutions, reaffirming the necessity of the Duke of

[1] Hortensia Mancini, niece of Cardinal Mazarin, who had taken refuge in England, had captivated Charles the Second with her charms, and had become a frequent visitor at Court, and obnoxious to the public as a power with the King in French interests. See Lord Macaulay's rhetorical sketch of her in the beginning of Chapter IV. of his History of England.

[2] Barillon, December 23 and 27, 1680.

York's exclusion, and their determination not to grant supply unless the King agreed to it, declaring all who advised this message to be pernicious counsellors, promoters of Popery, and enemies to the King and kingdom, stigmatizing Halifax specially as one of these; and for an address for the removal of the Marquis of Worcester, Earls of Clarendon and Feversham, Hyde and Seymour, from the King's councils and presence for ever. Further resolutions were passed, with a view to preventing the King from borrowing money, that any one lending the King money in advance on the customs or excise, or any one accepting any tally or anticipation on the King's revenue or hearth-money, should be judged a hinderer of the sitting of Parliament, and be responsible for the same in Parliament.

The King now resolved to prorogue the Parliament. On the tenth, he went to the House of Lords privately to prorogue, intending to take the two Houses by surprise. But it had become known the night before that a prorogation was designed, and the Commons met early in large numbers, and passed a number of strong resolutions before the Black Rod knocked at their door. They resolved:—1. That whoever advised the King to prorogue, for no other reason than to prevent the passing of the Exclusion Bill, is a betrayer of the King, the Protestant religion, and the kingdom, a promoter of the French interest, and a pensioner of France. 2. That thanks be given to the City for their loyalty to the King, and vigilant care for the preservation of his person and of the Protestant religion. 3. That the Commissioners of Customs have wilfully broken the law

prohibiting importations of French commodities, and hat, if they shall hereafter break it, they shall be questioned in Parliament. 4. That the Duke of Monmouth had been removed from his offices and commands by the influence of the Duke of York. 5. That the King be prayed to restore the Duke of Monmouth: that the prosecution of the Protestant Dissenters on the penal laws is, at this time, grievous to the subject, and weakening to the Protestant interest, and an encouragement to Popery, and dangerous to the peace of the kingdom. While the last resolution was being put, the Black Rod appeared. "The heat in the House of Commons," says Barillon, "was very great. Proposals were made for retiring into the City of London. Others suggested a resolution to prevent a further prorogation by a commission under the great seal; but no resolution was taken on these proposals."[1] A bill for the repeal of an Act of Elizabeth for the repression of sectaries, which the Protestant Dissenters desired, and which had passed both Houses of Parliament, did not at the last moment receive the royal assent, through a stratagem of the King, which became the subject of inquiry in the next short Parliament.

The King prorogued the Parliament to a day only ten days distant, to the twentieth of January. Before that day arrived, Parliament was dissolved on the eighteenth, and a new Parliament was called, to sit at Oxford on March 21. When the King announced in the Council his intention to dissolve, Lord Salisbury was about to speak against a dissolution; but the King told him

[1] Barillon, January 10, 1681. (Archives of French Foreign Office.)

that his speaking was of no use, as he had finally made up his mind. Salisbury then asked leave to retire from the Council, which the King at once granted.[1]

Halifax and Seymour were said to have been the chief advisers of the dissolution and of the summoning of the next Parliament to Oxford. Sunderland, who had voted for the Exclusion Bill, and was in good understanding with Shaftesbury, Monmouth, Russell, and their friends, was now dismissed from the Secretaryship of State; and he and Essex and Temple were dismissed from the Privy Council. Lord Conway succeeded Sunderland as Secretary of State. The King punished Sunderland with peculiar severity by refusing him permission to receive from his successor the sum, or any part of it, which he had paid, according to the custom of the time, when he had succeeded Williamson as Secretary of State.[2] The Duchess of Portsmouth was for a short time out of her royal lover's good graces. Halifax and Seymour went into the country immediately after the dissolution, to stay there till the Parliament met at Oxford. Hyde remained, the chief adviser. He was soon after made a Peer, with the title of Viscount Hyde.

The dissolution of the Parliament alarmed and shocked the Prince of Orange. He now openly declared himself for the Exclusion Bill, and was ready, if it would help, to be excluded with the Duke of York. He told Sidney that "he would be put in this bill if

[1] Barillon, January 20. Luttrell, p. 64.
[2] Countess of Sunderland, in H. Sidney's Diary, &c., ii. 165. Barillon, January 31, 1681, in Archives of French Foreign Office.

it would do any good." Barillon learnt that he wrote to Charles pressing the Exclusion Bill, and saying that, if it was necessary for satisfaction of the Parliament, the Princess of Orange and he would both consent to be excluded with the Duke of York.[1]

[1] H. Sidney, ii. 161. Barillon, January 20 and March 3, 1681. (Archives of French Foreign Office.)

CHAPTER XVIII.

1681.

Shaftesbury and fifteen other Peers petition the King that the Parliament shall meet not at Oxford but at Westminster—Instructions for members of new Parliament—Arrangements for Shaftesbury's residence at Oxford—Correspondence between Shaftesbury and Locke—Fears of the Oxford Parliament—Secret verbal treaty with France for subsidy to Charles for three years settled before the King's going to Oxford—Fitzharris's impeachment by the Commons—The Lords refuse to entertain it—Conversation of Shaftesbury with the King at Oxford about Monmouth and the succession—Fitzharris's trial—His charge against Danby—Lord Howard of Escrick's imprisonment—Shaftesbury's fears of arrest—Rumour that he wished to renounce the peerage—Settles his estate securely for his family—Arrested, carried before the Privy Council, and sent to the Tower, July 2—Ill with ague—Kindness of Sir John Cheke, Lieutenant of the Tower—Ineffectual attempts to be released or bailed—Indicts the witnesses against him and the magistrates who took their informations for conspiracy and perjury—Indictments refused—College's trial and execution—Shaftesbury orders sale of his horses—Requests the King to be allowed to retire to Carolina for the rest of his days—King will not listen to it—Indictment at Old Bailey—Witnesses for the grand jury examined in open court—The evidence—Grand jury throw out the bill—Sir John Hawles's opinions on the trial—Lord Campbell condemns the conduct of the Judges, and thinks Shaftesbury properly acquitted—Joy at acquittal—Dryden on Shaftesbury in Absalom and Achitophel—In The Medal—Butler's sketch of him in Hudibras—Otway's Venice Preserved—Dryden's Albion and Albanius—Calumnies on public men—Shaftesbury's freedom from resentment.

THE summoning of the Parliament to meet at Oxford had aggravated much the discontent caused by the late dissolution. It was said aloud that, if the King once left London, he would not return when he pleased.[1]

[1] Barillon, January 20, 1681. (Archives of French Foreign Office.)

On January 25, a petition was presented to the King by the Earl of Essex, signed by himself and fifteen other Peers, praying that the Parliament should sit at Westminster and not at Oxford. Shaftesbury was one of the signers of this petition: the others were Monmouth, the Earls of Kent, Huntingdon, Bedford, Salisbury, Clare, and Stamford, Lords Mordaunt, Eure, Paget, Grey, Herbert, Howard of Escrick, and Delamere. This petition was very strongly worded. The King's proceedings of the last two years were reviewed and censured; he was reminded of his frequent statements about the Popish Plot and the dangers from Roman Catholics, his broken promises as to government by the advice of his reformed Privy Council, and all his prorogations and dissolutions. The King was told that at Oxford neither Lords nor Commons would be safe, "but daily exposed to the swords of the Papists and their adherents, of whom too many are crept into your Majesty's Guards;" and the petitioners prayed that the Parliament might sit at Westminster, "it being the usual place, and where they may consult and act with safety and freedom."[1] The King is said to have replied that he regarded the petition only as the opinion of so many men.[2] Another account represents the King as saying to Lord Essex, who presented the petition, "That, my lord, may be your opinion, but it is not mine."[3] Yet another account is that the King gave no answer but a frown.[4]

[1] The petition is printed at length in Martyn's Life, ii. 266.
[2] Luttrell, i. 65.
[3] Lingard's History of England, xii. 272.
[4] Martyn's Life, ii. 264, quoting Rapin.

Instructions were prepared by Shaftesbury to be distributed among constituencies for the guidance of the members whom they elected. A copy of these instructions has been found, in Shaftesbury's handwriting, among the papers at St. Giles's, and they are printed at the end of this volume.[1] The members elected were told that they were required: 1. to insist on a bill for exclusion of the Duke of York and all other Popish successors from the throne; 2. to insist on an adjustment between the King's prerogative of calling, proroguing, and dissolving parliaments, and the people's right to annul parliaments; 3. to get rid of "guards and mercenary soldiers;" and 4. to give no money unless full security were provided against Popery and arbitrary power.

Shaftesbury took time by the forelock in preparing for his residence at Oxford, which, it was expected, might be of some duration, and begged Locke's aid. The following letters of Locke and Shaftesbury are interesting in several ways, as showing Locke's great zeal to comply with Shaftesbury's desires, Shaftesbury's own minute attention to details, the readiness of Oxford dignitaries like Dr. Wallis, the Savilian Professor of Geometry, the Rector of Exeter College, and the Master of Balliol, to oblige Shaftesbury and do him honour, and the extensive accommodation required for Shaftesbury's reception. Locke was ill at the house of his friend, Mr. Tyrell, at Oakley, in Buckinghamshire, when early in February he had a letter from Shaftesbury, asking him to go to Oxford to see for suitable

[1] Appendix VII. They were printed by Mr. Martyn in his Life.

accommodation for him. Locke wrote in reply, that he was ill, and, though he would go if he possibly could, he must not be depended on. Stringer immediately wrote to him by Shaftesbury's direction not to think of troubling himself, and that, on hearing of his illness, Shaftesbury had despatched his "gentleman," Shepherd, to Oxford to do what was needful. Locke's zeal, however, had overcome his illness, and he went to Oxford to fulfil Shaftesbury's wishes. The following long letter to Shaftesbury is a report from Locke of his zealous proceedings at Oxford:—

"CHRIST CHURCH, *February* 6, 1681.

"MY LORD,—The day I writ to your Lordship from Oakley I made use of by quitting my bed and my chamber to fit myself the best I could to bear the cold open air, and the next day following I removed hither to assist, as your Lordship had commanded me, all I could in promoting your Lordship's designs, as it was proposed in the letter your Lordship was pleased to honour me with. By the account I received from Mr. Vernon there was little hopes to compass your proposals about a college. However, I could not satisfy myself without doing all was possible for me in whatever your Lordship commanded or had a concern in. As soon as I saw Mr. Vernon, the Duke of Monmouth's secretary, he told me that, the having a college being past hopes, your Lordship had pitched upon Dr. Wallis's house, and that he had direct orders from his Grace to take it for your Lordship. The place I judged as convenient as any in town, being in the lane between the schools and new college near in the midway betwixt them, as quiet a place as any in the town. And Mr. Vernon having

not yet been there, we went together to see the Doctor's house, and found the Doctor very ready to accommodate your Lordship the best he could; and not knowing but that since the design of being in a college to keep house together was broken, your Lordship might return to the desire of having a house for your family (which was in the first letter that bid me speak to Alderman Wright to provide for you), I desired to see all the Doctor could spare for you. I asked, too, whereabout the price would be, but could get no other answer but that he would leave that to your Lordship, though I moved it a second time. But then Mr. Vernon saying that it was left so to the Duke his master by Alderman Wright, at whose house he was to lodge, I could not well press it further, especially not having particular instructions how many rooms your Lordship would have need of. Since that, by a letter I received from Mr. Stringer on Friday night, being informed that your Lordship desired only some rooms for yourself and a small suite, I went again yesterday to Dr. Wallis, and there measured the rooms, and more particularly observed the furniture, whereof I have here enclosed and sent your Lordship a particular and a hasty draught of the second floor, that your Lordship might choose those rooms more fitted for your service. The chambers in the north stories that I have not the measure of are directly over the wainscoated rooms, and communicate by the stairs marked §, and is a distinct apartment from top to bottom from the rest of the house, and takes up all that end of the house, only there is a room in the front story over the little kitchen, and under the third chamber of the second story, of the same figure and largeness with those rooms, which, though the Doctor said your Lordship should have if you desired it, yet telling me it was his study,

and knowing how troublesome a thing it was to remove books, I thought your Lordship would not be willing to give him this trouble without a pressing necessity, and I never mentioned it to him or your Lordship amongst the rooms you were to have, especially he telling me that for a need he could help your Lordship a room or two more in the other end of his house. And that your Lordship may by a true state of all particulars take such measures as you shall think most convenient, the Doctor was not willing of himself to part with the mohair room, saying that then he should have no ground room left for himself. But I telling him it would be very convenient for your Lordship if you lay on the ground-floor, which your Lordship told me in your letter you desired; indeed if your Lordship lies below, it is as I think the fittest chamber, at least it will be necessary to your convenience. But if the gout hinders not, your Lordship will perhaps think it best to lie up one pair of stairs joining to the dining-room, and I thought it best to keep my hand upon as many rooms as the Doctor could at all spare till your Lordship's own determination, believing that perhaps your Lordship would think it better to have Sir William Cooper, Mr. Hoskins, Colonel Rumsey, or some of your own friends, in the house with you if there were any spare room, after you had chosen what you had a mind to, than have them let to strangers. I accepted two of the cellars and the kitchen to be offered to your Lordship, because though your Lordship desired to eat abroad, yet I concluded that would be only dinners, and it would not be inconvenient to have at least a barrel of ale or small beer and bread for the use of your own self and company at other times, and there must be places for wood, &c., under lock and key. And

if your Lordship should make no other use of the little kitchen on the ground-floor, the Doctor said there might be a bed set up in it for servants. The Doctor desires also to know, since your Lordship brings your own bed, what linen he must furnish; and of this and what rooms your Lordship will please to take or leave he desires an answer by the next post that he may take order in his affairs, accounts, &c., and what beds more there must be.

"As soon as I had taken my first view of Dr. Wallis's house, I went to Dr. Berry[1] and gave him your Lordship's thanks, as you commanded me, for the civility of his offer. He told me there were three of the best rooms together in the house if your Lordship pleased to accept of them. I answered that your Lordship had now given order to take lodgings in the town, after which he again made an offer of those chambers, and told me that he thought some other conveniences might be got to them, but that the whole college could by no means be had. I told him I would acquaint your Lordship with the civilities he expressed to you, and so I parted without putting him to explain what he intended to do with those chambers, thinking it unreasonable to desire him to keep them to expect your Lordship's answer about them, when there were positive orders come to take Dr. Wallis's house. And on the other side I was willing they should remain some time under the offer of your acceptance, because they might be serviceable to designs I had of getting you yet a whole college, which I saw would be of mighty use to you and the rest of the Lords. The project I thought feasible, because I am sure it was very reasonable, and I should

[1] Dr. Berry was Rector of Exeter College, where Shaftesbury had been educated.

have thought it to be embraced as very advantageous had I been in his place to whom it was made. But not to trouble your Lordship with that which was nothing but an unsuccessful contrivance, I can only say that we have all here but one sort of reasoning. But to return to Exeter College: I know not whether those rooms there that were designed are so much at your dispose as that you may accommodate with them any of the other Lords your friends. But I dare not move in it myself till I have your Lordship's order, till I know whether your Lordship would venture to be denied or to be so far obliged to the Rector.

"As to stables, Alderman Wright brought me to a great yard in Jesus Lane, where there is several livery stables; he has one there of his own for four or five horses, and I shall have an answer the beginning of the week whether they may be had, so as to have stable room enough for your Lordship's eleven horses (the number sent me). Alderman Wright has indeed very kindly offered to send his own horses into the country to make room for your Lordship's, when they come, and if the worst comes to the worst you shall have use of his, and he doubts not to get another stable in some other convenient place to serve your turn. He tells me he will furnish me with hay as good as any in England, and very good oats at 20*s.* per bushel, the rate that he pays his own tenant for them; there are also conveniences to be got there and just by for lodgings for grooms and coachmen. But not knowing whether this place, which is in the middle of the town, just by Jesus College, would altogether please your Lordship because of an intimation in Mr. Stringer's letters, I wrote to seek a place nearer the fields and the air for your horses. At the Dolphin Inn, joining to St. John's College, I found

stable-room enough untaken up, which is now but in few of them; but the stables not very good. He stands upon 10*d.* per horse a night for hay, and will have the furnishing of oats at 8 groats a bushel. He has promised to keep stall-room for eleven horses if I give him an answer by the end of this week. At Dr. Wallis's, joining to the wood that is before his house, is a coach-house, a precious thing now in Oxford; this also your Lordship may hire. There is never an one at the place where Alderman Wright's stable is, nor at the Dolphin, but the fellow having a large yard will set up one on purpose if your Lordship thinks it necessary to have the coach and horses stand together. Mr. Cowling, I hear, is to come speedily hither, the great disposer of lodgings, stables, &c. And therefore if your Lordship think fit to take order with him to lend me, if there be need, so much assistance from my Lord Chamberlain's authority as may be necessary in any concernment of your lodging or especial about stables (the great want, I hear, of the town), it may perhaps help me very much in getting or securing convenience for your Lordship.

"My Lord, before I had finished this long letter Mr. Shepherd came in, and I was exceedingly ashamed that a suspicion how I should be able to bear the air should give your Lordship so much trouble. For though I designed, when I writ to your Lordship from Oakley, to come away hither the next day after, yet not knowing how I might be able to go through with it after so long keeping my bed, and being almost constantly in a breathing sweat, I thought it the best way not to be too positive in undertaking, lest, your Lordship depending upon me and should be disabled, your Lordship might be disappointed in a business that so nearly concerned you. And if I should come short by this post (which

was the next after that which brought you my letter from Oakley) to prevent your giving orders to anybody else (for your first orders being to Alderman Wright I supposed possibly your Lordship might write to him again), yet I thought if the business were done it would a little excuse my not being able to tell your Lordship, so soon as I would, that I was about it. I was very much troubled I could not go about it the very moment I received your Lordship's commands. And I thank God that slow haste I made hath not had such effects as the friends, where I was, feared. I wrapped myself very warm and galloped most part of the way, and I thank God have found no great increase of my cough since. I beg your Lordship's pardon for this tedious, long letter, and am, my Lord,

"Your Lordship's most humble and
most obedient servant,
"J. LOCKE.

"Mr. Shepherd has seen and likes the lodgings exceedingly."

This is Shaftesbury's short and business-like reply to the preceding letter:—

"LONDON, *February* 8, 1681.

"MR. LOCKE,—I received yours of the 6th instant, and am extremely concerned lest you should have hindered your health in going abroad, but I am extremely obliged to you for the care you have taken of me, and to Dr. Wallis for his great civility. I am much pleased with the accommodation I shall have in his house. I shall bring so few servants, that the ground rooms, with the rooms of the first story, will serve my turn very well, without either the mohair room or the room where the Doctor's books are. I shall want the

two cellars, and kitchen below. For what beds I shall want, or linen, I desire liberty till the next post, expecting before that to have spoken with Shepherd. I am not solicitous in what part of the town my stables stand, only I like those best that give me liberty to find my own hay and oats. Neither am I solicitous whether my coach and horses stand near together. I beseech you present my service and thanks to Alderman Wright. I do not doubt, by the next post, not to find some friends that will take the three rooms in the second story at Dr. Wallis's house. Therefore I should be glad if they were not till then let to strangers. I have no more at present, but that

"I am, Sir,

"Your affectionate friend and servant,

"SHAFTESBURY.

"For Mr. John Locke,
Student of Christchurch, Oxford."

There are two more letters from Shaftesbury. Accommodation was, in the end, provided for him and his friends in Balliol College:—

"*February* 19, 1681.

"MR. LOCKE,—I am extremely obliged to you, and so are all the rest of the Lords, for the trouble we have put you to. The bearer comes from us all to take possession of our allotments in Balliol College, and to provide things necessary. He is ordered in the first place to address himself to you.

"We are told here that you have four very worthy men stand for Knights of the County of Oxford. 'Tis unhappy that we should make trouble and expense amongst ourselves; the two last knights were very worthy men, and therefore 'tis much wished here that you or some other worthy person should persuade Sir

Philip Harcourt and Sir John Norris to sit down. Those that deserved well in the last Parliament ought in right to have the preference; and, at this rate of parliaments, I wish all our friends have not more than time enough to be weary. I shall trouble you no further at present.

"I am,

"Your affectionate friend and servant,

"SHAFTESBURY."[1]

"THANET HOUSE, 22*nd February*, 1680.

"SIR,—I design my own lodging to be that room next the dining-room. I shall bring my own bed and bedding, but I shall want a pallet-bed in my chamber for one of my footmen. Two of my gentlemen-servants must lie in the little parlour, therefore I must desire a bed to be set up there for them. My other footman must have a bed in the little kitchen; for, by your letter, I understand that the Doctor is willing to spare me that, and will make use of the kitchen below for himself.

"My Lord Grey will lodge in the bedroom of the second story;[2] the other room must be for his two gentlemen, and there must be a bed set up in the third room for his footmen We shall want only sheets for our servants, since we diet at another place. Pray let Mr. Alderman Wright know I depend upon him for his

[1] This letter is printed in Lord King's Life of Locke, i. 256.

[2] Lord Grey, who was to lodge with Shaftesbury, and was his intimate friend, afterwards made a long written "Confession" from the Tower to ingratiate himself with James II.; in which he particularly endeavoured to throw dirt on Shaftesbury. He represents that Shaftesbury, Monmouth, Russell, and Lord Macclesfield had arranged and for some time intended not to go to Oxford for the Parliament, but to remain in London to prepare for arms, if the King's conduct at Oxford should render it necessary. But these early and continuous preparations of Shaftesbury for his residence at Oxford seem to give the lie to Lord Grey on this point; and his is always the suspected testimony of an interested traitor.

stable, and desire to make up the rack and manger at the other end, according as Shepherd and you designed. The affair about Balliol College is committed to a very sober and discreet hand, that, if mistakes be possible, will be so happy as to find them. I have no more at present, but that

"I am, Sir,

"Your most affectionate friend and servant,

"SHAFTESBURY."

"These to Mr. John Locke,
at Christchurch, in Oxford."

As the time approached for the meeting of Parliament, discontent and apprehension increased. A rumour reached the King's ears that a plan was preparing to seize him at Oxford, and carry him to London under pretext of getting him out of the hands of the Roman Catholics. It was known that the members of Parliament intended mostly to go to Oxford, attended by armed servants.[1] The King was to go protected by a body of guards; and here arose a little difficulty. Barillon writes on March 10, that Arlington, the Lord Chamberlain, had gone suddenly to Oxford, nominally to give the necessary orders for the King's accommodation, but really because the Oxford tavern-keepers had refused to lodge the King's guards, the law, they said, forbidding the billeting of soldiers without consent of the inhabitants. The difficulty was overcome, but Barillon remarks: "In this country those who have the law on their side believe themselves very strong and do not easily yield."[2]

[1] Barillon, March 3, 1681. (Archives of French Foreign Office.)
[2] Ibid. March 10.

The King, meanwhile, was preparing himself for intractability of the Parliament in the old way of a French money treaty.

The first suggestion this time had come from France. For more than a month before the late dissolution, Barillon had, under instructions from Louis, been tempting Charles with proposals for such a treaty. Up to within a few days of the dissolution, Charles had shown no eagerness to listen to Barillon: but when he had made up his mind to that measure, the Earl of St. Albans, through whom Barillon had before communicated with Charles on this subject, told Barillon that Charles expected from him some proposal.[1] A proposal was soon made. The French King's objects were, that Charles should withdraw gradually from the Spanish alliance; that he should recall his Ministers from the German Courts, and from the North; that the Duke of York should be brought back to London; that the penal laws against Catholics should be suspended; and that Charles should promise not to call another Parliament.[2]

The negotiations continued until the eve of the meeting of the Oxford Parliament. By the time of its meeting, a treaty had been settled. Louis agreed to pay Charles a subsidy for the three next years,—two millions of francs the first year, and four hundred thousand crowns in each of the two next years. Charles agreed to disengage himself by degrees from the Spanish

[1] Barillon, January 20, in Archives of French Foreign Office. Dalrymple, ii. 191.
[2] Barillon, January 24, ibid.

alliance, and take care that Parliament did not interfere to break his engagements to Louis.[1] The treaty, settled before the Court left London for Oxford, was communicated by Barillon to Louis in a despatch of March 22, old, April 1, new style. It was not signed, and not to be signed. Charles feared to sign it, and it was settled that it should be a verbal agreement between the two Kings. Hyde negotiated the treaty, and was the only Englishman besides the King who knew its contents. The knowledge of these was withheld even from the Duke of York and Lord St. Albans, who had been engaged in the preliminary negotiations. These knew only that a treaty was agreed upon.[2] On one occasion, in the course of the negotiation, Charles, wishing to see Barillon, carried him for secrecy to the Queen's bedchamber, and conversed with him in the narrow space between the bed and the wall of the apartment, "*dans la ruelle du lit.*"[3] Charles wished the treaty to be kept secret from the Duchess of Portsmouth, saying that, if the treaty should ever come to be known and blame cast on her, she might then assert her innocence with a clear conscience. The Duchess of Portsmouth had recovered the favour of Charles, but Sunderland was still in disgrace; and it is likely enough that Charles feared to trust the Duchess of Portsmouth, knowing her close political connexion with Sunderland.[4]

[1] Hume's History of England, vol. viii. p. 207 (note), 8vo. 1791. Hume obtained information of this treaty from the French Foreign Office. See also Dalrymple, ii. 301.

[2] Dalrymple, ii. 301.

[3] Barillon, March 14, 1681. (Archives of French Foreign Office.)

[4] Dalrymple, ii. 301.

The Parliament met at Oxford on the twenty-first of March, and the King made a strong and uncompromising opening speech. The speech was printed and published in London, before it was printed at Oxford for the members.[1] Charles expressed his hope that there would be no renewal of the unwarrantable proceedings of the last House of Commons, which had forced him to a dissolution, and thought that it might be wondered how he had been patient so long. He recommended the further prosecution of the Plot, the trial of the Peers remaining in the Tower, and the providing for a speedier conviction of recusants. "What I have formerly and so often declared touching the succession," he said, "I cannot depart from." But he declared his readiness to listen to any expedient by which the Protestant religion might be preserved and the monarchy not destroyed. He suggested that means might be found for preserving the administration of the Government in Protestant hands, if a Popish successor came to the throne.

Halifax had suggested to Charles, and Charles was ready to accept the following, "expedient:" the banishment of the Duke of York for life, the title of King to be borne by him after the death of Charles, but the powers of government to be vested in a regent acting in the name of the banished King; the first regent to be the Princess of Orange, and after her the Princess Anne; and, if James should have an heir educated as a Protestant, the regency to expire on that

[1] Locke's Letter to Stringer, Oxford, March 26, 1680, in Appendix VII. Lady Russell's Letters, i. 83.

heir's coming of age. The early prorogation of this Parliament prevented this expedient from being brought before the House of Lords. In the Commons it was explained and recommended by Sir Thomas Littleton and Sir Thomas Meres, in a debate on a renewed proposal of the Exclusion Bill, and it was rejected as impracticable. The House of Commons resolved on March 26, after a debate of two days' duration, to bring in a Bill of Exclusion. The twenty-sixth was a Saturday. On Monday, the King, having done everything in his power during the Sunday to conceal his intention, and, having succeeded in doing so, went to the House of Lords early on Monday in a chair, with a second chair carrying his robes, and dissolved the Parliament. His words were few and peremptory: "My Lords and Gentlemen, that all the world may see to what a point we are come, that we are not like to have a good end when the divisions at the beginning are such, therefore, my Lord Chancellor, do as I have commanded you." And the Lord Chancellor then said, "His Majesty has commanded me to say that it is his Majesty's royal pleasure and will, that this Parliament be dissolved, and this Parliament is dissolved."

Other matters of difficulty for the King's government, besides the Exclusion Bill, had quickly arisen in the Parliament. Shaftesbury had lost no time in the Lords in re-introducing a bill for the repeal of the Act 35 Eliz., which had been ready for the royal assent, when the King prorogued the last Parliament and before proroguing gave his assent to other bills, and in moving for a Committee to inquire how it was that

the bill of the last Parliament had not been presented to the King with other bills ready on the day of prorogation. We have the advantage of a very interesting letter from Locke to Stringer, giving some account of the proceedings of this short Parliament, which is printed at the end of this volume.[1] The Clerk of the Crown, called before the Committee, said that, as he was bringing the bills, he met Lord Falconbridge, who asked him how many bills he had; and on his saying four, Lord Falconbridge said he heard that the King would give his assent to only three of them, whereupon the Clerk went to the Lord Chancellor, who said he did not know what the King would do, but he would ask him. The King ordered the bills to be brought to him in the Prince's lodgings, and there "the King took a certain Lord aside and talked with him in a corner of the room, after which he came to the Clerk of the Parliament, and told him he would not pass the Bill of Repeal." To an inquiry from the Clerk, if he should write on the bill the words used when royal assent is refused, the King said No, and told the Clerk not to bring the bill in the House to be offered to him. The Committee would not press the Clerk of the Crown for the name of the Lord whom the King consulted; but Locke writes that it is whispered that it was Lord Halifax. "We are told," says Locke, "that my Lord Halifax and Mr. Hyde are now the intimate and only counsellors."[2]

Another question which raised great heat between the two Houses was an impeachment by the Commons

[1] Appendix VII. [2] Locke's Letter in Appendix VII.

for high treason of one Fitzharris, newly accused of a design, in furtherance of the Popish Plot, to fasten upon Shaftesbury and his friends a libel against the King and the royal family, which had been concocted by himself. The chief reason of the great zeal of the Commons to pursue this wretched malefactor was doubtless a desire to strengthen the case for the Exclusion Bill. The Lords, informed by the Attorney-General that the King had ordered him to prosecute Fitzharris at common law, and that he had accordingly prepared an indictment against him at law, resolved, after long debate, that Fitzharris should be proceeded with at common law, and not by way of impeachment at this time. The refusal of the Commons' impeachment was much based on an accord made before Edward the Third in full parliament that the judgment given by the Lords against the murderers of Edward the Second should not be drawn into a precedent; and it was contended that the Lords could not try a commoner for his life. Twenty Peers, including Shaftesbury, protested against the Lords' refusal. At the close of a legal argument, it was declared in the protest that "this proceeding may misrepresent the House of Peers to the King and people especially at this time; and the more in the particular case of Edward Fitzharris, who is publicly known to be concerned in vile and horrid treason against his Majesty, and a great conspirator in the Popish Plot to murder the King and destroy and subvert the Protestant religion." The Commons were furious at the Lords refusal. The conflict between the two Houses on this subject was thought chiefly to cause the King's sudden

determination to dissolve. Sir Leoline Jenkins, in a letter to Henry Sidney, ascribes the dissolution chiefly to "the heats growing between the two Houses about Fitzharris."[1] Jenkins was Secretary of State, but he knew nothing of the King's money-treaty with Louis, which enabled him to defy Parliament.

The King, having dissolved the Parliament, left Oxford immediately, and arrived that day at Windsor. Shaftesbury left for London without delay.

A remarkable incident occurred during the few days of the Parliament's sitting at Oxford, which is narrated in detail by Barillon. Shaftesbury approached the King one day in the House of Lords, before the sitting began, and there occurred a free and familiar conversation between them about Monmouth and the succession. The King told Shaftesbury that he would be very glad to have a legitimate son, who might succeed him instead of the Duke of York, but that nothing would induce him to take measures contrary to law. Shaftesbury replied that, if law only restrained him from supporting Monmouth's succession, he and his friends would put law on his side.[2] The King told Shaftesbury that he must not delude himself, for that he would never yield on this point. We may learn from this remarkable conversation, and from Barillon's report of it, that Shaftesbury was treated with personal consideration by the King, and was regarded by him as a

[1] H. Sidney, i. 186. Jenkins adds: "Besides, nothing but the exclusion of the Duke would serve their turn: and 'twas plain, nay, which is more, 'twas confessed, an association, the militia, the fleet would have been demanded as securities requisite to make good the exclusion." See also Luttrell, i. 72.

[2] See Barillon's despatch of March 28, 1681, in the Appendix VII.

power; and Barillon speaks of him as a man of high credit (*bien accrédité*).[1]

The Oxford Parliament was the last of Charles's reign. He reigned for four years more, dying in February 1685, two years after the death of Shaftesbury; and he governed for these four years without a Parliament. His secret Treaty with Louis XIV. had secured him money enough for absolute necessities for three years to come.

The King lost no time in instructing the Attorney-General to proceed with the trial of Fitzharris. It was a general belief that the Judges would refuse to try him after his impeachment by the House of Commons. His counsel pleaded this impeachment in bar of a trial by an inferior Court. Fitzharris now came forward to accuse Danby of having joined in ordering the murder of Sir Edmond Bury Godfrey. A brother of Godfrey was foreman of the grand jury which, on April 29, under Chief Justice Pemberton's direction, found a true bill against Fitzharris for treason; and, before the sessions were ended, the same grand jury found, on May 16, on Fitzharris's evidence, true bills against Danby and Dupuy, a valet of the Duke of York, for the murder of Godfrey.

The Judges decided, on May 11, that the Commons'

[1] A reference to this incident occurs in a letter of March 31 from Dr. Zacharias Isham to Dr. Borlase, published in Sir Henry Ellis's Original Letters illustrative of English History, 2nd series, vol. iv. p. 165. "We have a long story here of a private conversation between the King and the Earl of Shaftesbury, who proposed to him the declaring of the Duke of Monmouth legitimate and the enriching himself by the Church lands, but the King firmly resisted both these proposals." Barillon, whose account is very careful and circumstantial, says nothing of a proposal about Church lands.

impeachment did not bar the jurisdiction of the Court of King's Bench, and had ordered that Fitzharris's trial should proceed. He was tried in the next term, found guilty, and executed on the first of July. The production of Fitzharris's new evidence about Danby's connexion with the murder of Sir Edmund Bury Godfrey had been regarded as a stratagem for preventing his condemnation: the Judges, it was thought, would not dare, by condemning him, to expose themselves to the reproach of destroying evidence about Godfrey's death.[1] The popular party had espoused the cause of Fitzharris, the question of the Commons' right to impeach a commoner being involved in his trial, and still more on account of his new charge against Danby; and most of the leaders of the party of Shaftesbury and Monmouth had been present in court every day when his case came on. Luttrell records their names.[2] Shaftesbury, Salisbury, and Essex had addressed themselves to the King, asking permission to be present at some private examination by the Judges into Fitzharris's new evidence; but the request, on the advice of the Privy Council, was refused.[3]

On the twenty-ninth of May, the Earls of Shaftesbury, Salisbury, and Essex asked permission of the King to speak with him in order to inform him of matters which concern the good of the state. He replied that he was too busy to give them an audience

[1] Barillon, May 19. (Archives of French Foreign Office.)

[2] Luttrell, pp. 80, 95. He names, among others, Shaftesbury, Essex, Salisbury, Mordaunt, Russell, and Cavendish. Lord Mordaunt is the future celebrated Earl of Peterborough.

[3] Barillon, May 12.

in London, but he would see them at Windsor, and there willingly listen to them.[1] There is no information as to the interview at Windsor.

After Fitzharris's conviction, his wife accused Lord Howard of Escrick of being the author of the libel for which Fitzharris had been tried. Howard was sent to the Tower on June 12; his application for *habeas corpus* for discharge on bail was refused. He was a prisoner in the Tower when, in the beginning of next month, Shaftesbury was sent there, and they were ultimately released together. Lord Howard of Escrick ultimately proved himself a despicable traitor; and there had been rumours, before his committal to the Tower, that he had gone over to the Court.[2]

There had been, ever since the Oxford Parliament, rumours that Shaftesbury was in danger from the Government. Even while that Parliament was sitting, Lady Russell records that Lady Shaftesbury in London had been frightened by a report that her husband was impeached.[3] Latterly, the idea of his being put on his trial on some trumped up charges of treason had become so fixed in Shaftesbury's mind that it was generally rumoured that he wished to renounce the peerage, that he might have the privilege of being judged by unprejudiced men, instead of by Peers selected by the King. It was probably at this time that he secured his estate to his family by a carefully

[1] Barillon, May 30, in Archives of French Foreign Office. Luttrell, p. 94.

[2] On April 22 Luttrell mentions a report that Lord Howard, "lately turned from Shaftesbury to the Court, is to be made Treasurer of England." On May 25 he mentions the report of his defection again.

[3] Lady Russell's Letters, p. 83.

made settlement. He is said also to have granted copyhold estates for their lives to several of his servants.[1] It will be seen, from a report of a discussion in the Committee for Foreign Affairs of the Privy Council, held on June 21, which is printed in the Appendix, that Halifax and Clarendon urged the arrest of Shaftesbury.[2] Halifax continued especially bitter against Shaftesbury. The same valuable paper discloses an expectation of a rupture with France, and an intention of calling a Parliament.[4] Halifax and Clarendon urged the securing of Shaftesbury before Parliament should meet.

On the second of July Shaftesbury was seized in his house, Thanet House, Aldersgate Street, early in the morning, by some dozen officers, with a warrant from the Secretary of State, and he was carried to Whitehall, where a Council had been specially summoned, and where the King arrived from Windsor about ten in the forenoon to be present at Shaftesbury's examination. The officers who arrested him seized a number of his papers. The witnesses against him before the Privy Council were chiefly Irishmen and Roman Catholics, men who had been Shaftesbury's informants about the Irish plot, and who were now suborned to give evidence against Shaftesbury of treasonable conversations.

[1] Martyn's Life, ii. 312.

[2] Appendix VII.

[3] There is among the papers at St. Giles's a letter to Shaftesbury from Mrs. Lilburne, widow of John Lilburne, probably written about this time, telling him that Halifax had endeavoured to engage her to get information as to a design which he believed that Shaftesbury and Buckingham had to change the Government.

[4] See, on the subject of the attitude of the King at this date towards France, a letter of Hyde to the Prince of Orange of June 21, 1681, printed in M. Groen Van Prinsterer's "Archives, ou Correspondance Inédite de la Maison d'Orange-Nassau," vol. v. p. 507.

The case against Shaftesbury was prepared by a magistrate, named Warcup, of very bad antecedents. Shaftesbury spoke for himself before the Council. "His Lordship," says Luttrell, "pleaded his innocence and his steadfastness always to his Majesty's interest, though in some things his judgment led him to take different measures from some more near his Majesty, though they all tended to the same end; and his Lordship told them that he thought they had not that opinion of him as to deal with Irishmen and Papists for subverting the Government, and that if he should do such things he was fitter for Bedlam."[1] The Council committed him to the Tower on a charge of high treason, in conspiring for the death of the King and subversion of the Government. He was taken from Whitehall to the Tower by the river. A story that "the very rabble hooted him on his way to the Tower,"[2] rests solely on the bad authority of the Duke of York. Luttrell says nothing of hooting; he says that Shaftesbury was conveyed by water to the Tower; and that in the evening "he was visited by the Duke of Monmouth, the Lord Grey, and several other Lords and persons of that

[1] Luttrell, i. 105.

[2] These are the words of Dr. Lingard, whose partiality throughout his narrative of the Popish Plot and of all connected with it is very great. (Hist. xii. 290.) It is said in the Life of James (i. 688) that Shaftesbury "was hooted at for a traitor as he went through the City to the Tower;" but there is no doubt that Shaftesbury went to the Tower by water. The words in Macpherson's extracts from James's papers are, "all the boys huzza'd him through London, calling out 'a traitor!' He was sent by water." (Macpherson's State Papers, i. 126.) This is rather flat self-contradiction. Burnet and Reresby say nothing about hooting, though both well enough disposed to relate anything to Shaftesbury's prejudice. But it is fair to remember that James fully admits the joy at Shaftesbury's acquittal five months after.

faction." Mr. Martyn relates that, "as he was conducted to the Tower, great crowds of people ran out to see him, and saluted him with their wishes and prayers for his prosperity."

It is further related by Mr. Martyn that one of the crowd cried out, "God bless your Lordship, and deliver you from your enemies," and that Shaftesbury replied, "I thank you, Sir, but I have nothing to fear; they have: therefore pray God to deliver them from me." Another story told of him is that when one of the Roman Catholic Peers in the Tower asked him what had brought him there, he replied that he had lately been ill with ague, and was come to take some Jesuits' powder.[1] These stories of course are quite likely to be fictitious.

There were rumours at this time that several others of Shaftesbury's party were to be arrested, and among those supposed to be in jeopardy were the Earls of Essex and Salisbury and Sir William Jones.[2]

Two days after Shaftesbury's committal, an order was sent to the Lieutenant of the Tower to keep him and Lord Howard close prisoners.[3] The sessions of oyer and terminer began at the Old Bailey on the sixth of July. Lord Shaftesbury and Lord Howard petitioned the Judges, under the Habeas Corpus Act, that they might be brought to trial or bailed. The Judges took time to consider, and on the eighth refused the petition on the ground that the Tower was out of their jurisdiction.[4]

It is true that Shaftesbury was ill with ague when he was taken prisoner and sent to the Tower. On

[1] Martyn's Life, ii. 288.
[2] Luttrell, i. 106.
[3] Luttrell, i. 106.
[4] Ibid. i. 109.

July 14, leave was granted to him on his petition to "take the air in his coach with his Lady and servants within the Tower, with a warder to attend him, but nobody to have access to him while taking the air or at other times without his Majesty's leave."[1]

The following is an extract of a letter of Sir Thomas Cheke, Lieutenant of the Tower, to Sir Leoline Jenkins, the Secretary of State, of date August 16 :—

"I have been sent to three times this day concerning my Lord Shaftesbury's removal to Sir Jonas Moore's, Surveyor of his Majesty's Ordnance, who hath a great house to himself, and very cool this hot weather. Sir John Michael, with one of his Majesty's physicians, who hath been often with my Lord Shaftesbury within this two or three days, doth believe my Lord in great danger, if I should oblige him to continue in his warder's house, which to my knowledge is so close if a man were in the best of health that he would be stewed in. I removed the Earl of Powis out of the same house for the very reason. My Lord Shaftesbury hath had two fits of an ague in four-and-twenty hours, so that, Sir, upon this occasion, I have given leave that my Lord may take a lodging at Sir Jonas Moore's, where I am as much answerable for him as where he was. He is in very great danger, if he were in much better air; but the custom of the Tower hath been frequent in these cases to remove prisoners to other quarters."[2]

The Government were not satisfied that the charges on which Shaftesbury had been sent to the Tower were sufficient to obtain a conviction or justify an indict-

[1] Domestic Papers in State Paper Office, 1681.
[2] From the Domestic Papers of 1681 in State Paper Office.

ment; and great efforts were being made to procure further evidence. Stories were thick of tampering with witnesses. "It is reported," says Luttrell, on July 6, "very confidentially that some persons are now come in, and have upon oath discovered how they were tampered with and suborned to swear against the Earl of Shaftesbury, touching the matters whereof he now stands accused." And again, on July 7, "It is confirmed that Mr. Zeale hath on oath discovered how he was tampered with to swear against the Earl of Shaftesbury, and who they were that suborned him."[1]

In the beginning of September, at the next Old Bailey Sessions, Shaftesbury and Howard again petitioned to be tried or bailed, there being as yet no indictment against them; but Chief Justice Pemberton, who presided, again refused, saying that it was the opinion of all the Judges that the Tower was not in their jurisdiction, under the Commission under which they sat, and that they must apply to the Courts at Westminster for relief. The application was renewed in the next session, beginning October 17, and again refused for the same reason.[2] At the same time with these applications to the Judges sitting at the Old Bailey, Shaftesbury, on each occasion, petitioned the magistrates of Middlesex sitting at Hicks's Hall, but by them also his applications were always refused.

In the September sessions bills of indictment had been preferred, at Shaftesbury's instance, against Warcup, the magistrate who had taken the informations on which

[1] Luttrell, i. pp. 107, 109.
[2] Martyn's Life, ii. 193. Luttrell, ii. 119.

Shaftesbury was charged before the Privy Council, and John Smith, John Macnamara, and Bryan Haines, three of the witnesses, for subornation of perjury and conspiracy. Chief Justice Pemberton refused to admit the indictments, resting his refusal on these grounds: 1. That if persons accused of crimes could indict the witnesses against them, it would destroy evidence, and enable felons and burglars to escape punishment. 2. That the furnishing of these indictments was a design to destroy the King's evidence, and put an end to the Popish Plot; and 3. That the King's name was used in these indictments without consent given by the Attorney-General, and without his consent they could not be admitted. The Attorney-General was present in Court, and refused his consent.[1] Three other indictments against David Fitzgerald, Edward Ivey, and Bernard Dennis, three other Irish informants against Shaftesbury, were presented to the Middlesex magistrates at Hicks's Hall, and were there stifled.

While Shaftesbury was lying prisoner in the Tower, and the Government postponing his indictment from month to month, till they could get evidence against him which might ensure the ruin of their most formidable adversary, Stephen College, a humble, zealous follower of Shaftesbury, was indicted in London for treasonable words alleged to have been uttered at Oxford, escaped through the rejection of the bill by the grand jury, was immediately afterwards sent to Oxford to be tried, was there found guilty, on the evidence of some of the very witnesses who had informed against Shaftes-

[1] Martyn's Life, ii. 297. Luttrell, i. 121.

bury, and was executed on August 31. This might well inspire Shaftesbury with alarm: and who is the man with dear ties on earth, however brave when danger must be faced, who does not value life for others' sake, if not his own, and would not be uneasy and disturbed at a prospect of death by the machinations of unjust and unscrupulous power?

During this imprisonment, probably expecting never to see Dorsetshire again, Shaftesbury made up his mind to sell his stud, and he wrote out the following instructions, which are in his handwriting among the papers at St. Giles's:—

"*August* 2, 1681.

"To sell all of my horses at these following prices:—

"My bay stone horse, 7 years old, for 50*l.*

"My bay stone horse, 4 years old and past, 70*l.*

"Two geldings, 30*l.* each.

"A bay mare, 5 years old, 15*l.*

"For my two stone colts, 3 years old past, 60*l.* each.

"For my four stone colts, 2 years old past, 40*l.* each.

"For my stone colt, 1 year old past, 25*l.*

"As for my breeding mares, I have proposed, if they will take four of the best together, they shall have them for 30*l.* each, with the colts by their sides. And so I will sell any of them apart, unless it be Bey Darcey, which, if they will have alone, I ask 40*l.* for her and her colt. The great grey mare, that is five years old and hath no colt, I ask 30*l.* for her singly. The old bay Spanish mare and her colt I ask 20*l.* for. The blind mare and her stone colt I will not take under 20*l.* for. Bondich and her mare colt I will take 12*l.* for. All these are horsed with my Arabian, and so much the more valuable.

"If any neighbour buy any of the mares, I shall be ready always to pleasure them with my stable."

As time went on, Shaftesbury became more anxious, and in October, in despair, he wrote to his old colleague, Arlington, the Lord Chamberlain, offering, if released from imprisonment, to retire for the remainder of his days to Carolina, of which colony he was part proprietor, and in the government of which he had always taken an active interest; but the King rejected the overture, saying that he must stand or fall by the law.[1] Arlington is said, in Macpherson's extracts from James's Memoirs, to have endeavoured to promote Shaftesbury's wish.

On the twelfth of October, Shaftesbury's Secretary, Mr. Samuel Wilson, was apprehended and committed by the Privy Council to the Gatehouse, on a charge of treason.[2]

At last, in the beginning of November, it came to be known that a special commission of oyer and terminer was to be shortly issued for the trial of Shaftesbury. It was issued a few days after, and the Commission was opened on November 24.[3] Some days before the opening of the Commission, there appeared in print an elaborate statement of one Captain Henry Wilkinson of the endeavours which had been made by Booth, who was shortly afterwards one of the witnesses on the trial, to suborn him to give false evidence against Shaftesbury.[4]

[1] Luttrell, i. 136. Sir John Reresby's Memoirs, p. 248. Sir Richard Bulstrode's Memoirs, p. 332. Macpherson's State Papers, i. 130.

[2] Luttrell, i. 135.

[3] Ibid. i. 141.

[4] "The Information of Captain Henry Wilkinson of what hath passed betwixt him and some other Persons who have attempted to prevail with him to swear High Treason against the Earl of Shaftesbury." London: Printed for Henry Wilkinson, 1681.

Wilkinson's story bears all the marks of truth; it was not in any way discredited. Wilkinson, who had been an officer of the army, was lately on the point of sailing for Carolina, of which Shaftesbury and his co-proprietors had appointed him Deputy-Governor, when he was arrested on account of debts incurred in fitting out his vessel, and was thrown into prison. Booth, a man of very disreputable character, who had been convicted of coining and of murder, and escaped by a King's pardon, Baines, a friend of Booth, and Graham, one of the solicitors employed by the Government to get up the case against Shaftesbury, persistently plied him with offers of great benefit, if he would accuse Shaftesbury of treasonable conversations, and, among other offers of advantage, promised him an estate worth four hundred pounds a year, belonging to the Duke of York. These promises having no effect, he was ordered to attend at the office of Sir Leoline Jenkins, one of the Secretaries of State. There he saw Sir Leoline and Lord Conway, the other Secretary; and after a little while the King came in. The King himself examined him, and was astonished that he had nothing to tell against Shaftesbury. Later he was confronted in another room with the King, the Lord Chancellor, Lord Halifax, Lord Hyde, the two Secretaries of State, and Chief Justice Pemberton; Graham, Booth, and Baines were also present. Wilkinson says :—

"My Lord Chancellor was sharp upon me with several questions, which I could give no answer to. My Lord Chancellor would not believe but I must be guilty of

knowing great things against my Lord Shaftesbury. I told him if I could not be believed upon my word there, if they pleased to bring Lord Shaftesbury upon his trial, I would declare it in open court upon oath what my knowledge was, without any hopes of gain or advancement. My Lord Chancellor, I thank him, did me that equity to tell me there were two sorts of advancement; I need not give myself that trouble, for I was like to come to my trial myself before my Lord Shaftesbury."

Wilkinson's narrative, which was never contradicted or disproved, is alone sufficient to fix infamy on the endeavours to procure Shaftesbury's conviction.

Bishop Burnet, who was not partial to Shaftesbury, says that "there was strange practising with witnesses to find more matter against him. The Court had found out two solicitors to manage such matters, Burton and Graham, who were indeed fitter men to have served in a court of inquisition than in a legal government."[1]

At last, on November 24, a bill of indictment against Shaftesbury, for high treason, was presented at the Old Bailey. The grand jury was composed of London citizens of substance and character: Sir Samuel Barnardiston was the foreman. Lord Chief Justice Pemberton presided, and charged the grand jury. He explained the law of high treason, stating that the indictment was framed on the statute of 13 Car. II. as confirming and enlarging the provisions of 25 Edw. III. By the first Act it was high treason to "compass, imagine, or intend the death of the King, and to declare it by overt act or

[1] Own Time, ii. 285.

to levy war against the King." The Act of Charles the Second's reign made the intention to levy war high treason as well as the actual levying of it, and also made the designing and compassing of the King's death high treason without an overt act. The Act of Charles the Second also had made the imprisoning or restraining of the liberty of the King high treason. The Chief Justice then explained what he deemed the duty of a grand jury as to the indictment. On this head, his explanation was convenient for the prosecution, but not conformable to practice, and condemned by subsequent high opinion. He laid down that it was not for the grand jury to judge the truth of the accusation, but simply whether there be probable ground for putting the accused on trial. "It is not thought fit," he said, "by the law that persons should be accused and indicted, when there is no colour nor ground for it, when there is no kind of suspicion of a crime, no reason to believe that the thing can be proved; it is not for the King's honour to call men to an account in such cases; therefore, you are to inquire whether that that you hear be any cause or reason for the King to put the party to answer it." Having thus limited the duty of the grand jury, the Chief Justice proceeded to threaten them. "And let me tell you, if any of you shall be refractory, and will not find any bill, where there is a probable ground for an accusation, you do thereon undertake to intercept justice, and you thereby make yourselves criminals and guilty, and the fault will be at your door."

When the Chief Justice had ended his charge, the Attorney-General requested that all the witnesses against

Shaftesbury should be examined publicly in Court, and not, as was the usual practice, privately in the grand-jury room. The grand jury strongly remonstrated against this, but were overruled by the Judges, and submitted under protest. Lord Campbell, an authority on this matter, calls the request for public examination of the witnesses an "extraordinary application," and explains it by a desire to overawe the grand jury by the authority of the Judges. After this, the grand jury asked to see the warrant for Shaftesbury's commitment; and this the Chief Justice refused, saying that it was in the possession of the Lieutenant of the Tower, who kept it as his indemnity. Then the witnesses were produced.

After formal evidence for identifying Shaftesbury's papers, among which the only one relied on was a project of association, without signature, and not in Shaftesbury's handwriting, for defence of the Protestant religion and of the King and Parliament, and for prevention of the Duke of York's succession, the following evidence was given:—1. John Booth swore that he was introduced to Shaftesbury by Captain Wilkinson, who was going out as deputy-governor to Carolina, and that he saw and conversed with Shaftesbury four or five times in Wilkinson's company, between Christmas and March; that Wilkinson told him he was to command fifty men to be Shaftesbury's guard at Oxford, and wished him to be one of them; that he first heard from Wilkinson that Shaftesbury had said, and that he afterwards heard it from Shaftesbury himself, that, if the King did not consent to certain measures, they must purge the King's guard, and remove several persons from the Court.

2. Edward Turberville swore that, in the month of February, Shaftesbury had said that there was but little good to be done with the King, so long as he had his guards. 3. John Smith swore to several conversations of Shaftesbury strongly reflecting on the King, and that he had specifically said that, if the King should offer any violence to the Parliament at Oxford, he would find that the members had come there armed and well provided for resistance, and that they might lawfully resist, if the King offered violence. 4. Bryan Haines swore that Shaftesbury had said that, if the King did not give Haines a pardon, he and his friends would raise a rebellion: and had further said that the Duke of Buckingham had as much a right to the crown as Charles. 5. John Macnamara swore that Shaftesbury had said that the King was Popishly affected, and was proceeding as his father did, and that his proceedings would bring him to the block; and that he deserved to be deposed as much as King Richard the Second. Dennis Macnamara confirmed John Macnamara's evidence. Edward Ivey swore, as Haines had done, to Shaftesbury's threatening to raise a rebellion, if Haines was not pardoned. Bernard Dennis swore that Shaftesbury had bid him speak with his friends in Ireland, to be ready to assist to make a Commonwealth, for that he intended to have a Commonwealth, and drive out the King and family.

This evidence having been given in answer to questions from the counsel for the Crown and from the Court, the grand jury afterwards cross-examined the witnesses at some length, and severely. The cross-examination concluded, Pemberton again reminded the grand jury

that it was their duty to inquire "whether it be fitting for the King to call my Lord Shaftesbury to question upon this account of treasonable words."

The grand jury retired to consider the evidence, and rejected the indictment. The foreman wrote *Ignoramus* on the back of the bill.

The insufficiency of the case against Lord Shaftesbury, the justice of the grand jury's decision, and the unfairness of Chief Justice Pemberton and the Judges who sat with him to Shaftesbury, have been affirmed by high legal authority. Sir John Hawles, who was Solicitor-General in the reign of William the Third, carefully examined the case, and deliberately wrote and published his view of it. As to Pemberton's explanation of the duty of the grand jury in the case, Sir John says:—

"I think it is not what the Chief Justice said, to consider only whether there be probable ground for the King to call the person accused to an account; much less do I think that the reason of finding a bill by the grand jury was for the honour of the King or decency of the matter, lest persons accused should be called to an account by the King, when there is no kind of suspicion of the crime committed by them, as the Court said (which last matter was since assigned as a reason of finding a bill by the grand jury before); but I take the reason of a grand jury to be this, that no man for a capital matter shall ever be questioned by the King, unless a grand jury take it on their oaths that they believe the matter of the accusation true. I put an emphasis on the words 'questioned by the King.'"

As to the witnesses and their evidence, the following is a part of Sir John Hawles's remarks:—

"Could any person who knew my Lord Shaftesbury, or that had heard of or believed his character to be what it was, believe that it was possible for him to discourse with the witnesses at the rate they swore, to some of them at the first, to others of them the second time he saw them, to discourse of matters of policy with Booth at one time, afterwards with Haynes, and afterwards with Macnamara, fellows of so little sense that he would have been ashamed to have entertained them in the meanest office about him; and yet, as they pretended, he makes them his privadoes in the secret of not so much what he would have them, but of what he intended himself, to do."

Unreliable as is Lord Campbell, where accuracy as to facts is needed, he is not only a competent, but a high authority on matters of law. His prejudice against Shaftesbury makes his testimony as to the unfairness of the Court and the insufficiency of the evidence even more valuable; and Lord Campbell, with Sir John Hawles, disputes Chief Justice Pemberton's doctrine on the functions of the grand jury, condemns the public examination of the witnesses, and sums up by saying that, "notwithstanding all the pains that had been taken for four months, the case was not stronger than at the time of the commitment, and the witnesses, telling a most improbable story, contradicted each other and themselves, although the Judges interposed from time to time with friendly questions, and tried to keep them in countenance." On Pemberton's doctrine that the grand jury had only to decide whether there was probable cause for the indictment, Lord Campbell says that he ought instead to have told them that "though the pro-

ceeding was *ex parte*, and not conclusive, a case must be made out against the prisoner, which, if not answered, would be sufficient to convict him of high treason." But "the cunning judge," says Lord Campbell, "knew that *Billa Vera* would have been Shaftesbury's death-warrant." If the grand jury had found a true bill, Shaftesbury, as a peer, there being no Parliament, would have been tried in a High Steward's Court by peers selected by the King; and his conviction in such a court was a certainty.

The report in the State Trials of Shaftesbury's trial concludes with these words:—"The jury withdrew to consider the evidence, and returned the bill *Ignoramus*, upon which the people fell a holloaing and shouting." *Att.-Gen.*—"My Lord, let it be recorded, this holloaing and hooting in a court of justice." There is no doubt about the acclamations of joy which followed Shaftesbury's acquittal. The testimony is unanimous. Sir Leoline Jenkins wrote to the Prince of Orange that the acclamations in court for Shaftesbury's acquittal lasted an hour.[1] The courtier, Reresby, says that "the rabble lighted bonfires."[2] The Duke of York is made to say more fully that "the bells rung, bonfires were made, and such public rejoicing in the city that never such an insolent defiance of authority before was seen."[3] Luttrell says that at night were ringing of bells, and bonfires in several parts of the city.[4] There may or

[1] Dalrymple, i. 64.
[2] Reresby's Memoirs, p. 251.
[3] Life of James II. i. 714. See also Macpherson's State Papers, i. 131.
[4] Luttrell, i. 146.

may not have been some hooting and ribaldry when, five weeks before, he entered a boat at Whitehall, or landed at the Tower steps, a prisoner committed for treason. It is part of the bad in human nature to insult misfortune and glorify success.

There is an apocryphal story, which Lord Campbell relates, that when the messenger reached Shaftesbury in the Tower with the news of his acquittal, he found him playing at piquet with his wife; and Lord Campbell adds that "he calmly continued, the cards having been probably provided by design for the occasion, like Richard's prayer-book at Crosby House, when he expected the offer of the Crown." The spiteful spirit of this comment is unhappily a worse fault of Lord Campbell's biography than its great inaccuracy. It may or may not be true that Shaftesbury was playing at cards in the Tower while the question of his life or death was being decided at the Old Bailey. Cards, after all, may furnish diversion and relief from anxious agony. He was playing cards, it is said, with his wife. The character of this lady has been made known in the course of this work. That was not a moment for farce-acting of husband and wife. If Shaftesbury was capable of such a melodramatic indecency, his wife would not have joined in it.

Shaftesbury's friends celebrated his acquittal with a medal, which on one side had a bust of Shaftesbury, with the inscription, "Antonio Comiti de Shaftesbury," and on the other side a picture of the Tower and its surroundings, with the sun emerging from a cloud to shine, and at the top the word "Lætamur," with the

date, twenty-fourth November, 1861, below. This medal gave occasion to a satirical invective by Dryden; but before speaking of "The Medal," I must speak of "Absalom and Achitophel," which preceded it.

Just one week before Shaftesbury's happy escape from his persecutors, Dryden had published his "Absalom and Achitophel," written, it is said, with the benefit of advice from the King,[1] well adapted and probably deliberately designed to injure a formidable adversary who was about to be tried for high treason, and in any case a cowardly attack on a prisoner awaiting trial for life. This well-known allegorical poem needs no lengthened explanation. Absalom is Monmouth, evilly counselled by Achitophel, who is Shaftesbury, to rebel against his father David, who is Charles, "a monarch after Heaven's own heart." The malicious skill of the poet, inspired by old obligations to Monmouth and to his wife, and by the knowledge that Charles always had a tender affection for this his natural son, has aggravated the attack on Shaftesbury by gentle treatment and even many praises of Monmouth. Some extracts have been already made in this work from "Absalom and Achitophel."[2] Shaftesbury is thus described by Dryden as the worst of the ungrateful opponents of Charles:

> "Of these the false Achitophel was first,
> A name to all succeeding ages curst:
> For close designs and crooked counsels fit,
> Sagacious, bold, and turbulent of wit;
> Restless, unfixed in principles and place,
> In power unpleased, impatient of disgrace;

[1] Spence's Anecdotes, on Pope's authority, p. 112.
[2] See pp. 175-6, and 288 of this volume.

A fiery soul, which working out its way,
Fretted the pigmy body to decay
And o'er-informed the tenement of clay.[1]
A daring pilot in extremity,
Pleased with the danger, when the waves went high,
He sought the storms; but, for a calm unfit,
Would steer too nigh the sands to boast his wit.
Great wits are sure to madness near allied,[2]

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[1] Sheffield, Earl of Mulgrave, afterwards Duke of Buckinghamshire, had produced in 1679, four years before the publication of "Absalom and Achitophel," his "Essay on Satire," containing some lines on Shaftesbury, and referring somewhat similarly to his small, weak body, and restlessly active mind:—

"As by our little Machiavel we find
That nimblest creature of the busy kind,
His limbs are crippled, and his body shakes;
Yet his hard mind which all this bustle makes,
No pity of its poor companion takes.
What gravity can hold from laughing out,
To see him drag his feeble legs about,
Like hounds ill-coupled! Jowler lugs him still
Through hedges, ditches, and through all that's ill.
'Twere crime in any man but him alone
To use a body so, though 'tis one's own;
Yet this false comfort never gives him o'er,
That, whilst he creeps, his vigorous thoughts can soar."

The "Essay on Satire," being published anonymously, was thought by many to be Dryden's; and Dryden had a severe cudgelling for it on the instigation either of Wilmot, Earl of Rochester, or of the Duchess of Portsmouth. There is no ground for the suspicion of Dryden's authorship; Mulgrave afterwards fully acknowledged the poem as his own. The difference of the two styles is very manifest. The above lines were a good deal altered in language, in a subsequent edition of Mulgrave's poem; and they may be read in their later form in a note in the Globe edition of Dryden's Poems, p. 95. But Mulgrave could sometimes write well; and a couplet immediately following the description of Shaftesbury is an example of his good writing:

"Alas! that soaring to those few that know
Is but a busy grovelling here below."

[2] Lord Lytton, in his fascinating poem, "St. Stephen's," has improved on this piece of philosophy: and I quote Lord Lytton's lines as one proof of the immense injury done to Shaftesbury's fame by the powerful malevolence of Dryden:—

"But from the flats of that ignoble hour
What genius lifts its lightning-shattered tower?
Wild as the shapes invoked by magic spell,
Dire and grotesque, behold Achitophel!
Dark convict, seared by History's branding curse,
And hung in chains from Dryden's lofty verse. [Yet

And thin partitions do their bounds divide;
Else why should he, with wealth and honour blest,
Refuse his age the needful hours of rest?"

Dryden proceeds with indecent personal ribaldry to taunt Shaftesbury with the imperfections of his son, who was not clever and probably not very estimable.[1] But truth would make the stab sharper.

"And all to leave what with his toil he won
To that unfeathered two-legged thing, a son;
Got, while his soul did huddled notions try,
And born a shapeless lump, like anarchy."

Then come the lines further describing Shaftesbury, and accusing him of breaking the triple alliance and preparing England for slavery to France, which have been already printed in this volume. The poem is written in a spirit of triumphant glee at victory of Shaftesbury over his opponents; the speech with which Charles opened his Oxford Parliament at the beginning of the year is extended and improved: and the concluding lines of the poem declare the inaugura-

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Yet who has pierced the labyrinth of that brain?
Who plumbed that genius, both so vast and vain?
What moved its depths? Ambition? Passion? Whim?
This day a Strafford, and the next a Pym.
Is it, in truth, as Dryden hath implied?
Was his 'great wit to madness near allied?'
Accept that guess, and it explains the man:
Reject,—and solve the riddle if you can."

[1] There is no doubt that Shaftesbury's son was not very estimable. There is a letter of Locke, among the Papers at St. Giles's, written to him very shortly after his father's death, reproaching him in a very frank and manly style for ungrateful and rude conduct to Shaftesbury's widow, his step-mother, who had been as a mother both to him and to his son. The Dowager Countess of Sunderland mentions him contemptuously in one of her letters to Henry Sidney; after mentioning Shaftesbury she writes, "His son has not much to do, for he is every night in Hyde Park with his wife, and two dirty men at the other end of the coach." (H. Sidney's Diary, &c., ii. 13.)

tion of a new reign of tranquillity and security for Charles:

> "Henceforth a series of new time began,
> The mighty years in long procession ran;
> Once more the godlike David was restored,
> And willing nations knew their lawful lord."

The magnificent versification of this brilliant poem, and the all-absorbing interest of the subject at the time, procured for "Absalom and Achitophel" a rapid sale, which Dr. Johnson's father, who was a bookseller, used to say that he had never known equalled except by the narrative of Sacheverel's trial.[1] A new edition appeared within a month.[2] In this second edition, there was the addition to the description of Shaftesbury, containing high praise of him as a Judge, which has been already quoted,[3] and another addition of four lines on Monmouth, well adapted to please his father:

> "But oh that yet he would repent and live!
> How easy 'tis for parents to forgive!
> With how few tears a pardon might be won
> From nature, pleading for a darling son!"

Three months after this second edition, Dryden poured forth another satire, specially devoted to Shaftesbury, and containing invective against him fiercer and coarser than that of "Absalom and Achitophel." This was "The Medal," referring to the medal which Shaftesbury's friends had produced to celebrate his acquittal. The following lines are part of the opening of the poem:—

> "Five days he sate for every cast and look,
> Four more than God to finish Adam took.

[1] In Johnson's Life of Dryden.

[2] Lord Campbell erroneously says that this poem "in a few months had gone through seven editions." Seven editions were published in Dryden's lifetime; that is, in eleven years.

[3] See p. 176 of this volume.

But who can tell what essence angels are
Or how long Heaven was making Lucifer?
Oh, could the style that copied every grace
And ploughed such furrows for an eunuch face,
Could it have formed his ever-changing will,
The various piece had tired the graver's skill!"

Then Dryden proceeds to describe Shaftesbury's career through a long period of change and revolution, with frequent exaggeration and misstatement.

"A martial hero first, with early care
Blown, like a pigmy by the winds, to war;
A beardless chief, a rebel ere a man,
So young his hatred to his Prince began.
Next this, (how wildly will ambition steer!)
A vermin wriggling in the usurper's ear.
Bartering his venal wit for sums of gold,
He cast himself into the saint-like mould;
Groaned, sighed, and prayed, while godliness was gain,
The loudest bagpipe of the squeaking train.
But, as 'tis hard to cheat a juggler's eyes,
His open lewdness he could ne'er disguise.

* * * * *

Besides, their pace was formal, grave, and slack;
His nimble wit outran the heavy pack.
Yet still he found his fortune at a stay,
Whole droves of blockheads choking up his way;
They took, but not rewarded, his advice;
Villain and wit exact a double price.
Power was his aim; but thrown from that pretence,
The wretch turned loyal in his own defence,
And malice reconciled him to his Prince.
Him in the anguish of his soul he served,
Rewarded faster still than he deserved.
Behold him now exalted into trust,
His counsels oft convenient, seldom just;
Even in the most sincere advice he gave
He had a grudging still to be a knave.
The frauds he learnt in his fanatic years
Made him uneasy in his lawful gears.
At best, as little honest as he could,
And, like white witches, mischievously good.
To his first bias longingly he leans
And rather would be great by wicked means.
Thus framed for ill, he loosed our triple hold,
(Advice unsafe, precipitous, and bold.)
From hence those tears, that Ilium of our woe:
Who helps a powerful friend forearms a foe.

What wonder if the waves prevail so far,
When he cut down the banks that made the bar?
Seas follow but their nature to invade;
But he by art our native strength betrayed.
So Samson to his foe his force confest,
And to be shorn lay slumbering on her breast.
But when this fatal counsel, found too late,
Exposed its author to the public hate,
When his just sovereign by no impious way
Could be seduced to arbitrary sway,
Forsaken of that hope, he shifts his sail,
Drives down the current with a popular gale,
And shows the fiend confessed without a veil."

I must leave the reader to compare Dryden's invective with the story of Shaftesbury's life, as I have told it, after such industry and care as I have been able to give to the collection of facts and examination of evidence, and form his own judgment of the truth and justice of Dryden's diatribes.

Sad indeed that intellectual power, such as Dryden's, should have been used without any conscience for flinging obloquy! He was the King's poet-laureate and pensioner, and was an expecting applicant for further favours. There is a circumstantial story that Charles expressly suggested to him "The Medal" as a good subject for a satire, and gave him a present of money when he had written it. Spence tells this story partly on Pope's authority: he had heard it, he says, from a priest whom he often met at Pope's, and he adds that Pope seemed to confirm it. "One day, as the King was walking in the Mall, and talking with Dryden, he said, 'If I was a poet, and I think I am poor enough to be one, I would write a poem on such a subject in the following manner.' He then gave him the plan of 'The Medal;' Dryden took the hint, carried the poem, as soon as it was

written, to the King, and had a present of a hundred broad pieces for it."[1]

There had appeared, some three years before "Absalom and Achitophel," the third part of Hudibras, containing another elaborate satirical sketch of Shaftesbury's character and career, written with the lighter hand and more playful pen of Butler, and ridiculing Shaftesbury's many changes, which an honest, consistent royalist may be excused for judging wrongly and severely. Butler's character of Shaftesbury begins:

> "'Mong these there was a politician,
> With more heads than a beast in vision."

Probably Butler's sketch, though published much later, refers chiefly, if not exclusively, to Shaftesbury's career before the Restoration: and his judgment would in that case be an early one.

> "H' had seen three governments run down,
> And had a hand in every one;
> Was for 'em and against 'em all,
> But barbarous when they came to fall:
> For, by trepanning th' old to ruin,
> He made his interest with the new one;
> Played true and faithful, though against
> His conscience, and was still advanced:
> For by the witchcraft of rebellion
> Transformed t' a feeble state-chameleon,
> By giving aim from side to side,
> He never failed to save his tide,
> But got the start of every state,
> And, at a change, ne'er came too late;
> Could turn his word, and oath, and faith,
> As many ways as in a lathe;
> By turning wriggle, like a screw,
> Int' highest trust, and out for new:
> For when h' had happily incurred,
> Instead of hemp, to be preferred,

[1] Spence's Anecdotes, p. 112.
[2] Hudibras, part iii. canto 2, line 351.

And passed upon a government,
He played his trick, and out he went;
But being out, and out of hopes
To mount his ladder, more, of ropes,
Would strive to raise himself upon
The public ruin, and his own;
So little did he understand
The desp'rat'st feats he took in hand,
For when h' had got himself a name
For frauds and tricks he spoiled his game;
Had forced his neck into a noose,
To show his play at fast and loose;
And when he chanced t' escape, mistook
For art and subtlety his luck."[1]

This is enough to show the character of Butler's description of Shaftesbury. There are many examples in the present day of similar caricatures and exaggerated and distorted descriptions of the actions and motives of honourable and laborious public men. Political writers, carried away by strong feeling or actuated perhaps by spite, are now, as then, apt to interpret by want of principle proceedings of statesmen on whom they do not kindly look, and, judging from a distance and with restricted opportunities of knowledge, to speak harshly of men of whom, if they knew them, they would have a juster and better opinion. Butler, living in poverty in Rose Street, might be mistaken, prejudiced, and embittered as to Shaftesbury. Let Shaftesbury be judged not by the writings of prejudiced political opponents and virulent interested foes, but by the esteem of honourable and cultivated men, who were his intimate friends. I appeal from Dryden and Butler to Lord Russell, Lord Holles, and Locke.

But there were worse attacks on Shaftesbury than

[1] A coarser poetical sketch of Shaftesbury in "The Court Burlesqued," published in Butler's "Posthumous Works," is not by Butler.

those of "Hudibras," "Absalom and Achitophel," and "The Medal." Otway, a superior dramatist, but a man of very inestimable character, brought Shaftesbury on the stage, in 1682, as Antonio in "Venice Preserved," representing him as the lewdest of debauchees. Duke, a friend and imitator of Dryden, an Oxford-bred scholar, but an inferior poet, described him, under the name of Antonius in his "Review," as joining extreme private immorality with political falsehood, and further disgraced himself by an unseemly reference to Shaftesbury's abscess kept open by a silver pipe to preserve his life.

> "The working ferment of his active mind,
> In his weak body's cask with pain confined,
> Would burst the rotten vessel where 'tis pent,
> But that 'tis tapt to give the treason vent,"

Dryden is responsible for a much grosser violation of decency, after Shaftesbury's death, in allowing the same malady to be burlesqued on the stage. His play of "Albion and Albanius," brought out in 1685, in honour of Charles the Second and his brother James, the reigning king, was illustrated by a huge drawing of "a man with a long, lean, pale face, with fiends' wings, and snakes twisted round his body, accompanied by several fanatical rebellious heads, who suck poison from him, which runs out of a tap in his side."[1] When men of genius and high education could thus degrade themselves, what was to be expected from the scum and refuse of politics and the Grub-street of literature? "Tapski" was a name given to Shaftesbury in derision,

[1] Description of Decorations of the Stage in act iii. of "Albion and Albanius," vol. vii. p. 266, of Scott's edition of Dryden's Works.

and generally circulated, and vile defamers described the abscess, which had originated in a carriage accident in Holland, as the result of extreme dissipation. It may be given to us in a future state to know, what here is a mystery, why the lives of honest public servants and benefactors should be embittered, and their posthumous fame, to which man's ambition looks forward, blackened through many generations, by triumph of malice and falsehood. The nature of political life specially exposes statesmen to bad passions and calumnies. There are some excellent remarks on this subject in a passage of Lord Stanhope's History of England, where he mentions the sensitive pains of the composed Marlborough and the stately Somers, caused by scurrilities and calumnies. "How often," says Lord Stanhope, "have such malignant falsehoods damped the brightest energies, and discouraged the most active patriotism! They have quelled spirits which had not shrunk before embattled armies, which had confronted the terrors of a parliamentary impeachment, the Tower and the block!"[1] Shaftesbury bore with heroic calmness and Christian temper the gibes, accusations, and persecutions showered upon him. Lady Russell is reported to have said that she had never seen any one so free from gall as Lord Shaftesbury, for he was never in the least bitter or angry in speaking of his defaming foes.[2] The beautiful lines in which a great poet of later time, generously honouring the memory of a

[1] History of England, vol. i. chap. 2.

[2] This is stated in Mrs. Hill's interesting letter to Lady Elizabeth Harris, printed in Appendix VIII.

brilliant politician of genius far more irregular than Shaftesbury's, may be fitly quoted to illustrate the fate of Shaftesbury's fame:—

"Hard is his fate on whom the public gaze
Is fixed for ever to detract or praise;
Repose denies her requiem to his name,
And Folly loves the martyrdom of Fame.
The secret enemy, whose sleepless eye
Stands sentinel—accuser—judge—and spy,
The foe—the fool—the jealous—and the vain,
The envious, who but breathe in others' pain;
Behold the host, delighting to deprave,
Who track the steps of glory to the grave,
Watch every fault that daring Genius owes
Half to the ardour which its birth bestows.
Distort the truth, accumulate the lie,
And pile the pyramid of calumny!"[1]

[1] Lord Byron's Monody on the Death of Sheridan.

CHAPTER XIX.

1681—1683.

Shaftesbury released on bail, December 1—Discharged from his bail, February 13, 1682—Brings actions of *Scandalum Magnatum* against Graham and others, and of conspiracy against Booth and Baines—Actions dropped on the Court's deciding that they should be tried in another county than Middlesex—Efforts of the King's party—The Tories establish a victory in the City—Election of Tory Sheriffs—Shaftesbury, Russell, and others consult for a rising—Work distributed—Shaftesbury and Russell to look after the City—Shaftesbury leaves Thanet House and conceals himself—Urges immediate rising—Disappointed at postponement and flies—His danger not imaginary—His mind and temper perhaps affected by illness and anxiety—Shaftesbury and Russell had engaged in a treasonable enterprise—Exploded doctrines of Divine right and non-resistance—Letter from Lady Shaftesbury to Locke about Shaftesbury's grandson—Shaftesbury goes to Harwich for Holland—Adventures at Harwich—Reaches Amsterdam—Made a citizen—Contradictory and doubtful stories as to his reception and treatment—Illness and death—Reports of Massal the spy, a man of infamous character, to Archbishop Sancroft—Massal proposes to murder Sir W. Waller—Shaftesbury's will—Letter of Sir William Cooper to Stringer—Russell and Sidney's executions—Reign of James II. and Revolution justify the Exclusion Bill—Review of Shaftesbury's public life—His freedom from corruption—His character—Locke's reports of his conversations—Mr. Coste's account of Locke's opinion of him—Fox's, Hallam's, and Lord Macaulay's judgments—Fox and Hallam criticised—Reply to Lord Macaulay.

THE grand jury's *Ignoramus* did not immediately release Shaftesbury from the Tower. A week after, he and three others, Lord Howard of Escrick, Mr. John Wilmore, and Mr. Edward Whitaker, were brought from the Tower, and Mr. Samuel Wilson from the Gatehouse, by *habeas corpus* to the King's Bench; and Shaftesbury

and Howard applied for discharge without bail, inasmuch as they had been prosecuted and acquitted. But the Court told them that they had not yet been brought to a trial, and so could not be discharged; but that, if the Attorney-General consented, the Court would so discharge them. The Attorney-General refused, and they were then admitted to liberty on good bail. Lord Russell, Sir William Cooper, Sir John Sydenham, and Mr. Charlton were bail for Shaftesbury; they were bound in 1,500*l.* each, and Shaftesbury himself in 3,000*l.* Monmouth was in Court, and offered himself as bail, which, says Luttrell, "incensed the Court more against him."[1] The joy at Shaftesbury's acquittal by the grand jury was not confined to London. Luttrell records, under date November 28, "Letters from several parts of the kingdom give us to understand the great joy that had been expressed for the enlargement of the Earl of Shaftesbury."[2] On December 13, the Skinners' Company, of which Shaftesbury was a member, "splendidly entertained" him with a congratulatory dinner.[3] Shaftesbury was at last released from his bail, there being no further prosecution against him, on February 13, 1682.[4]

In the meantime Shaftesbury had brought actions of *Scandalum Magnatum* against Graham, one of the solicitors employed by the Crown, and Mr. Cradock, a mercer in Paternoster Row, and an action for conspiracy against Booth and Baines, founded on their attempts on Wilkinson for false evidence.[5] Later

[1] Luttrell, i. 150. [2] Ibid. i. 148. [3] Ibid. i. 151.
[4] Ibid. i. 164. [5] Ibid. i. 150, 151, 182, 185, 190.

he brought actions of *Scandalum Magnatum* against Warcup, the magistrate who had taken the depositions, and Ivy and others of the Irish witnesses. But all these actions fell to the ground. The defendants moved successively the Court of King's Bench for trial in another county, on the ground that they could not expect a fair jury in Middlesex; and the Court in each case granted the application. It was represented in each case that Shaftesbury had long resided in London, had been concerned in trade in the City, was a freeman of the City, and member of the Skinners' Company, of which the sheriff, Pilkington, was master, and that he was extremely intimate with the two sheriffs. On the first occasion, in Cradock's case, Luttrell reports that Shaftesbury, being present, told the Court, after their decision, that "he would rather let his action fall than try it elsewhere, whenever the Court told him that that confirmed them in their opinion."

Sheriff Pilkington had, on March 17, given a great dinner to Monmouth, Shaftesbury, Essex, Howard, Grey, and other leading members of Shaftesbury's party.[1]

But the triumph of Shaftesbury and his party gained through the London grand jury was short-lived. Charles soon turned his defeat into strength and victory. The project of Association, which had been found among Shaftesbury's papers, and which, though not capable of being legally fixed on him for punishment, had undoubtedly his approval, if it was not his

[1] Luttrell, i. 192.

own composition, was made the means of exciting an agitation in the King's favour throughout the country: and addresses of abhorrence of the Association were sent up to the Throne from all parts of England. This project of Association was really identical with a proposal which had been made in both Houses of Parliament after the rejection of the Exclusion Bill, and there seriously considered. Essex had proposed it in the House of Lords. But agitation and misrepresentation produced their effect, and the enthusiasm of the King's friends was raised to a high pitch of excitement. Moderate men came forward for the Court, and there were defections from Shaftesbury's party. The King had made up his mind not to call another Parliament, and the fear of Parliament not being before him, he was able to strengthen himself by many revengeful and arbitrary measures. Through the country, magistrates who were of Shaftesbury's party were put out of the commission of the peace, and replaced by friends of the Court. The penal laws against Protestant Dissenters were put vigorously into execution.

In the autumn of 1681, Sir John Moore, an alderman friendly to the Court, had been elected Lord Mayor of London, succeeding Sir Patience Ward, who was a friend of Shaftesbury and Monmouth. On the next Midsummer-day, when the annual election of sheriffs came on, Moore helped the Court to effect an illegal return of two Tory sheriffs. It had been an ancient custom, which had been long disused, for the Lord Mayor, at a feast on the eve of the day of election, to nominate one of the

two sheriffs by drinking to him; and the liverymen elected the second. From the beginning of the great Civil War, it had been the practice for the liverymen to elect both sheriffs. At the King's suggestion, Sir John Moore had drunk to Mr. Dudley North, a brother of the Lord Chief Justice, and he insisted on his right to the election of North. The liverymen protested against this. There was a poll on Midsummer-day, Dubois and Papillon being the candidates opposed to the Court, and North and Box those on their side. The sheriffs, Pilkington and Shute, presided at the poll, and, before it was concluded, the Lord Mayor came and adjourned it. The presiding sheriffs disputed the Lord Mayor's right to adjourn, and persisted in continuing, and some rioting arose. The Lord Mayor complained the next day of the sheriffs to the Privy Council, who committed them to the Tower. On the thirtieth, they were released on bail. On July 5, the adjourned meeting took place for election of sheriffs, when the Lord Mayor, who was ill, desired through the Recorder a further adjournment to the seventh; but the Common Hall asking their opinion, the sheriffs objected to adjournment, and the poll proceeded. There was a large majority for Papillon and Dubois, and the presiding sheriff declared them elected. But the Lord Mayor contended that the meeting had been adjourned, and ignored its proceedings. At the Mayor's call, the Common Hall met again on the fourteenth, when the sheriffs stated that they were by his Majesty's order to poll again, but that this would be without prejudice to the former election. The Lord Mayor insisted that they were to poll for three only,

North being, he observed, already duly elected. The sheriffs desired the liverymen to vote for all four; and the Lord Mayor, hearing of this, came again and adjourned the poll to the next day. Then the Mayor appointed persons to record the votes, and there were two poll-books, that of the Mayor and that of the sheriffs. The sheriffs declared Papillon and Dubois elected by a large majority: the Mayor proclaimed North and Box. Disputes and litigation followed, continuing till the day when the sheriffs should be inducted into office. Box in the meantime declined to serve. This necessitated a new election in his place, and, by similar arbitrary acts of the Lord Mayor, Rich was elected his successor. The Lord Mayor and Court of Aldermen installed North and Rich as sheriffs.

The King thus gained by Tory sheriffs the power of securing Tory juries. There was no hope of Shaftesbury for escape, if another bill of indictment for treason was trumped up against him.

Shaftesbury, Russell, Monmouth, and a few others, now entered into serious consultations for a rising against the King. In August it was determined to take steps for feeling the way and concerting as to an insurrection in different parts of the country; Shaftesbury and Russell were to look after the City, and Lord Russell also was to communicate with leading political friends in the west; Monmouth was to make a progress in Cheshire, and there consult with Lord Macclesfield, Lord Brandon, and others. It was proposed to Lord Grey to take Essex under his charge,

and he says that he refused to do so, not disapproving of the proposed rising, but because he did not expect to be able to do any good in Essex. Lord Russell soon obtained promises of zealous assistance from Devonshire, and Monmouth enlisted Mr. Trenchard, who undertook to raise at least fifteen hundred men about Taunton. In September Monmouth was arrested at Stafford, on his way back to London from Cheshire, and being brought to London was released on a *habeas corpus*, on bail himself in four thousand pounds, and security of five friends in two thousand pounds each. Two of the friends were Lord Russell and Lord Grey. Shaftesbury at this time, both before Monmouth was brought to London and after, strongly advised that Monmouth should go back into Cheshire, and immediately head a rising; he answered for the City, if Lord Russell would head the insurrection there, and said he would put himself at the head of several thousands from Wapping and join Russell in the City. He had ten thousand brisk boys, he said, ready to rise. Russell counselled delay, and Monmouth concurred with Russell. About Michaelmas-day, Shaftesbury left Thanet House, fearing arrest, and lay for some weeks concealed in obscure houses in the City and in Wapping; but from his concealment he urged and stimulated his friends. About the end of October or beginning of November, there was a meeting in the City at the house of Mr. Shepherd, a wine merchant, at which were present Monmouth, Russell, Lord Grey, Sir Thomas Armstrong, Colonel Rumsey, and Ferguson, a Scotch clergyman and friend of Shaftesbury, whom Dryden

has scurrilously maligned.[1] Ferguson made a report from Shaftesbury, and those present agreed to join with him in a rising, which was fixed for some eight or ten days after. Grey, on his way to the meeting, had seen Trenchard, and had received from him a favourable account of his preparations in Somersetshire. Sir William Courtney was looked to as leader in Devonshire. The plan of proceeding in London was, on this occasion, privately arranged. There was a second meeting at Shepherd's of the same persons before the day fixed for the rising. It was then reported that Trenchard could not be ready so soon at Taunton, and it was resolved to postpone for a few weeks the day of rising. This was the nineteenth of November. When Shaftesbury heard of Trenchard's backwardness, and of the consequent postponement, he determined to make his escape for Holland.[2]

[1] Ferguson is described under the name of Judas in Dryden's portion of the second part of "Absalom and Achitophel," the bulk of which poem is from the very inferior pen of Nahum Tate:

> "Shall that false Hebronite escape our curse,
> Judas, that keeps the rebels' pension-purse,
> Judas, that pays the treason-writer's fee,
> Judas, that well deserves his namesake's tree?"

Lord Macaulay has adopted Dryden's abuse of Ferguson; but Dryden's abuse of a "rebel" is no authority. I have seen intercepted letters of Ferguson in the State Paper Office which give a favourable idea of his character. The utter unscrupulousness of Dryden's abuse is convincingly proved by his scurrilous treatment of another Scotch writer for Shaftesbury's party, James Forbes, who as Phaleg immediately follows Judas in the poem. I refer to my note on Phaleg in the Globe edition of Dryden's Poems, p. 161, for this proof.

[2] The above narrative is derived and condensed from Lord Grey's "Secret History of the Rye House Plot" (London, 1754), Rumsey's evidence on Walcot's trial, and Rumsey's and Lord Howard of Escrick's evidence on Lord Russell's trial. Dates and colourless facts may be taken on the authority of these traitors. That Shaftesbury, Russell, and the others consulted for a rising is undisputed. I do not take from any of these traitors statements inspired by personal feeling. Lord

Shaftesbury may have overrated the strength of the force on which he counted in Wapping and in the City; his "ten thousand brisk boys," of which he so glibly spoke, may have been a delusive reliance; he may have been more eager to begin than was prudent; but his personal danger was evidently great, else why should he have left his house in Aldersgate Street, and lived for the last six weeks in uncomfortable and often-shifting concealment? Two entries in the Diary of Narcissus Luttrell, an impartial authority and a fair index of public report and opinion, show that Shaftesbury was really in danger. On the third of October, Luttrell records, "There has been much discourse about town of new matters more against the Earl of Shaftesbury, and of warrants being out to apprehend him, and of his absconding thereon: but there is no certainty in these reports." And on October 13, more than a month before Shaftesbury fled, Luttrell supposes him gone, and thinks him well out of danger: "It is now certainly reported that the Earl of Shaftesbury is gone for Holland; and some others, 'tis thought, will follow, not thinking it safe to tarry here longer, as affairs are at present."

It is a special object of Lord Grey in his narrative to represent Shaftesbury as now imprudent and wild, and as being complained of for indiscretion and recklessness by Russell, Monmouth, and himself. Mon-

Grey's object is to throw odium chiefly on Shaftesbury, with whom he had not only been politically associated, but had lived on terms of friendly intimacy. He wrote his narrative to buy the favour of James the Second, and he was a thoroughly depraved man: Lord Howard of Escrick was another of the same sort.

mouth's and Grey's complaints would in any case be of little authority: Grey's because he was a worthless man, who can in no degree be relied on; and Monmouth's because he was vain, light-headed, and insincere. The sedate and honourable Russell may have been likely to err by excess of caution. Shaftesbury accused his associates of timidity, and concluded that no reliance could be placed on Trenchard. It is quite possible that Shaftesbury was wrong and Russell right. This is a matter of minor concern. It is very probable that grief, anxiety, excitement, and illness had now impaired Shaftesbury's temper and judgment, shaken that once strong nerve, and weakened, perhaps unhinged, that great and vigorous mind. This would be matter for compassion rather than reproach and ridicule.

It is more important to observe that Shaftesbury and Russell had embarked together in a scheme of insurrection which, if it succeeded, would be justified by success, and, if it failed, would be adjudged treason. On the main point of treasonable intent and act, there is no difference between Shaftesbury and Russell. It has been maintained by most writers that there was not at this time sufficient probability of success to justify a rebellion against the Government. It may or may not have been so. Success alone is held to justify rebellion. But how is success always to be ensured? Shaftesbury and his friends thought, when they consulted, that success might be attained; Monmouth, a military man, was very confident of success after a little waiting; Shaftesbury was more confident,

and resented delay. Either of these was as likely to be right as any or most who, at a distance of time, judge that success was improbable. Charles the Second's misgovernment was now intense and inveterate; and this at least nowadays will not be questioned, that subjects are justified, with a reasonable prospect of success, in rebelling against great misgovernment, otherwise irremediable; for the doctrines of divine right and unconditional non-resistance, which men like Burnet and Tillotson preached to Russell in his last days, and which Russell spurned at the cost of life, have long since gone to that limbo of disrepute into which many other devices of despots and fictions of priests have passed away.

During the time of Shaftesbury's uneasy absence from home, and shifting concealments in the City, the following letter was written by Lady Shaftesbury to Locke. It shows the continued kindness of the latter to Shaftesbury's young grandson:—

"ST. GILES'S, *27th October*, 1682.

"SIR,—Your great goodness and charity expressed to me and my good Lord by your cares and kindness to our dear child at Clapham can never be enough acknowledged; and though I must confess I was mightily troubled yesterday at the first reading of your letter, because Balls had before sent us word he had had a swelled face, which I apprehend he ought to be otherwise treated for than usual in such complaints, he having been all this year subject to a sharp humour, that has griped him many times, and relieved only by a natural looseness; but as your assurance, in your second letter (by the grace of God), of his being out of danger gave

me great hopes and joy, because of your kind concernment for him, so I trust in God my comfort will be increased by the knowledge of his perfect recovery from your own relation personally here, suddenly, who am impatient to express how much you have again obliged

"Your very faithful friend and servant,

"M. SHAFTESBURY."[1]

When Shaftesbury fled from London, he proceeded to Harwich, and was there detained some days, waiting for a fair wind. He was disguised as a Presbyterian minister, and his servant, Wheelock, who accompanied him, was also disguised, and passed for his nephew. Mr. Martyn tells the following story:—"One day, as Mr. Wheelock was dressing himself, and had taken off his black wig, the maid of the house came into the room and saw him with a fine light head of hair. She immediately told her mistress, who acquainted the Earl and Mr. Wheelock with the maid's discovery. As to herself, she said that she did not know, or desire to know, who they were, and that they might depend on her silence, but she could not be sure of the maid's, and therefore advised them to leave the house and town directly. Lord Shaftesbury, believing that it was impossible to quit the place with safety, thanked the mistress for her information, and told her he should have no apprehensions from one who had such a sense of honour. 'As for the maid,' says he, turning with a pleasant air to Mr. Wheelock, 'you must go and make love to her, and this may engage her secrecy.'"[2]

[1] From the papers at St. Giles's.

[2] Martyn's Life, ii. 328.

At last, on November 28, 1682, Shaftesbury left Harwich in a boat to join the ship which was to carry him to Holland. He is said to have despatched at the same time two of his servants, dressed like himself, in two different boats; and one of these is said to have been stopped and secured before he could reach the ship. There was a stormy sea as he crossed to Holland, and some other vessels in company with his were lost.[1]

He reached Amsterdam just in the beginning of December. There are contradictory accounts of his reception and treatment in that city during the short interval between his coming and his death. There is evident exaggeration in the accounts both of friends and of foes, and neither can be trusted. Shaftesbury was admitted on his petition a citizen or burgher of Amsterdam, as were also Sir William Waller, who had taken refuge there before him, and Ferguson, the Scotch clergyman, who arrived at the same time with him. The conferring of this citizenship was not an ostentatious compliment to a distinguished stranger; but it was necessary to protect Shaftesbury against demands of the English Government, and enable the authorities of Amsterdam to secure to him hospitable refuge. Bishop Burnet, some five years later, found in Dutch naturalization a safeguard against demands from James the Second.[2] The treaty of peace and alliance between England and Holland of 1674, renewing the provisions of previous treaties of 1662

[1] Martyn's Life, ii. 330. Rawleigh Redivivus, p. 123.
[2] History of Own Time, iii. 199—201.

and 1667, provided that British subjects, rebels or fugitives, being in Holland, must, on demand, be sent out of the country within twenty days. Shaftesbury, once a Dutch citizen, could remain safely in Amsterdam, and defy the King of England and his Ministers. But a sensational story which has been told of his petition for citizenship being granted with a reply from the magistrates—"Carthago non adhuc deleta Comitem de Shaftesbury in gremio suo recipere vult"—is too absurd to require argumentative refutation.[1] This would have been, indeed, an extraordinary official communication, having its like in no time in any civilized country; and be it remarked that, though Shaftesbury had, ten years before, as the King of England's spokesman, uttered the words *Delenda est Carthago*, when there was war between the countries, he had since been long the constant, indefatigable, maligned, and persecuted friend of Holland and the Protestant interest. There was every reason, then, now for his being kindly received in Holland. The absurd story of the reproachful mode of granting his petition for citizenship may resolve itself into the joke of some individual; and Mr. Martyn states, what is very likely, that one inhabitant of Amsterdam said to him, as he welcomed him, "My Lord, Carthago nondum est deleta."[2] Shaftesbury was made a citizen of Amsterdam, but there is no reason to believe

[1] Lord Campbell repeats this story as if it were true, and in a note cites Le Clerc as authority. But Le Clerc does not tell this story. I have not been able to trace it further than Seward's Anecdotes, which is not a good authority. Even Mr. Martyn does not give it.

[2] Martyn's Life, ii. 330.

that he was treated with any overpowering or conspicuous distinction. Amsterdam protected him, and there would be necessarily a wish not to give offence to the King of England by conspicuous honours, which would be invidiously interpreted. When first he arrived in Amsterdam, it is said by an enemy that he lodged for a week at an inn, called "The Bible," in Wann Street, during that time preserving an *incognito*, forbidding the mention of his arrival or residence, and dining every day at the *table d'hôte* as if he were a person of no distinction. This is the statement of an execrable villain, called Massal, an Italian by birth, who volunteered his services as a spy to Sancroft, the Archbishop of Canterbury, and proposed to the Archbishop to kill Shaftesbury's friend, Sir William Waller.[1] He would have been assuredly ready to assassinate Shaftesbury, if a natural death had not anticipated his wickedness. We may, however, take a fact of no sig-

[1] Massal's reports to the Archbishop of Canterbury are in the State Paper Office, having been probably forwarded at once, as a matter of business, by the Archbishop to the Secretary of State. It is impossible to suspect Sancroft of approval of such a villain, and it is charitable to suppose that he did not read the following passage, in which Massal proposes, under date January 29, after Shaftesbury's death, to assassinate Waller for the good of man and glory of God. "If it is necessary to get rid of this knight, inasmuch as he is a perpetual firebrand, I know very well the most infallible means of doing it, which I will put in execution when it is wished, and there will be opportunity of putting the wife to bed without making her cry, as is said in the proverb; for he is very debauched in wine and women. I know him too well not to know his hypocrisy and natural malignity; and this is why I should think I did nothing wrong in contributing to the death of a man who desires to ruin a kingdom." The mere fact of a political spy addressing such a proposal to the Archbishop for communication to the English Government indicates dreadful political demoralization. In his first letter to the Archbishop he speaks of having had his Grace's powerful protection while he was staying in London, and recalls himself to Sancroft's remembrance as "the poor honest proselyte of Turin."

nificance from Massal. He further says that, at the end of a week, Shaftesbury left the inn, and went to lodge in the house of an Englishman, Mr. 'Abraham Keck, a merchant, on the Gelder Kay. In this house he died. He was taken ill with gout, from which of late years he had often and much suffered, about the end of December; the malady flew to his stomach; he suffered excruciating agonies; and he died in the forenoon of the twenty-first of January. Ferguson sat up with him through the previous night; Waller was away at the time for a few days at the Hague on a mission from Shaftesbury; he died in the arms of his faithful servant Wheelock. Massal, the spy, thus describes his death: "It was last Sunday, between eleven and twelve in the forenoon; he asked for something to drink, and one of his gentlemen gave him some cold broth which he had been in the habit of taking continually; he then begged the attendant to raise him a little in the bed, and, while this was doing, he died in the gentleman's arms, after having cast some very deep sighs." This miscreant spy, who reports Shaftesbury's death to the Archbishop of Canterbury, moralizes on the event with all the unction of a pious religionist equal to the duty of murder:—

"Oh, how great are the judgments of God! My Lord Shaftesbury has in the end quitted life in the very place to which he had previously wished death and destruction. It is only too true that man proposes and God disposes in all things, as He is the author of all, and that the pride of man comes sooner or later to be punished by Divine justice. The Earl

was confined to his bed very ill since the first days of his fatal arrival in this city; the gout, to which he was constitutionally subject, having seized him in the stomach, and being attended by much grief, which his intrigues, so pernicious for all England, caused him. In fine, all natural causes, assisted by God's providence, made him pay the tribute to nature in spite of himself and his extraordinary ambition."

This is very well for a would-be assassin. The villanous writer mentions, as one of the natural causes of Shaftesbury's death, the sudden cessation of the discharge from his internal abscess, which, we know, was caused by an accident, but which this pious moralist attributes to excessive debauchery. This is a specimen of the slanders on Shaftesbury's morals, and may put one on one's guard on this subject; and when an unscrupulous spy seeks the favour of an Archbishop or of the English Government by offering to assassinate a political adversary, we may judge that Shaftesbury's fears from time to time of assassination were not delusions or pretences, and that such attempts in that age on a formidable adversary of the Government and conspicuous opponent of the Roman Catholics were far from being improbable.

While Shaftesbury lived in Amsterdam, his Dutch friends were chiefly of the sect of Brownists. Ferguson had previously preached in a Brownists' church in Holland, and he did so now in Amsterdam. Mr. Keck, in whose house Shaftesbury lodged and died, was also a Brownist. It is said by another enemy of Shaftesbury that his close association with the Brownists deterred

the chief citizens of Amsterdam and the ministers of other churches from paying him attentions.[1] There may be truth or not in this statement. Shaftesbury's illness came upon him soon after his arrival, and there was after all not much time for him to receive complimentary visits. The author of "Rawleigh Redivivus" says that Shaftesbury took a house in Amsterdam, where he intended to reside, and for which he was to pay 150*l.* a year rent, but that he died before he could enter it; and Mr. Martyn tells a similar story. But Lord Campbell goes further, and instals him in "a large house in which he was beginning to live very elegantly, out of compliment to his adopted country," and he proceeds to say that illness overtook him, "in the midst of the fêtes he was giving and receiving as a Dutchman." These are rhetorical flourishes of Lord Campbell without any foundation.

Shaftesbury made a will a few days before his death, which was as follows. He had settled all his property

[1] This is in a letter without signature, printed in the old Parliamentary history, "written from Amsterdam unto a citizen of London, in which is a relation of the death of the Earl of Shaftesbury;" and this writer says that he was ill received: "I am informed that when he found that the magistrates and ministers of Amsterdam did not visit and court him, as was promised by the English fanatics of Amsterdam, especially being refused to be made an upper burgher (as they term it), and his Lordship receiving rather discouragement from the magistrates than otherwise; I say this was that that shortened his days, and so died miserably in a broken coffee-man's house, one of the elders of the Brownists' Church." The French Minister at the Hague, who is a better authority, reported briefly Shaftesbury's death, under the impression that the Dutch had compromised themselves with the English Government by protecting Shaftesbury. "Milord Shaftesbury est mort ces jours-ci à Amsterdam d'une goutte remontée. Ainsi la protection que Messieurs d'Amsterdam lui ont donnée n'aura servi qu'à faire voir au Roi d'Angleterre le peu de considération qu'on a eu pour S. M. Britannique." (Archives of French Foreign Office.)

in England by deed, and the will dealt only with a small amount of personalty :—

"I, Anthony Earl of Shaftesbury, do declare this to be my last will and testament. And my desire is that my body be decently interred, and in order thereunto carried by my servant, Mr. Anthony Shepherd, into the Parish of Winborne St. Giles's, in England, and laid with my ancestors. Item: I give unto my dear virtuous, loving, and faithful wife all mine or her jewels, and particularly the necklace of pearl and the diamonds that are in the hands of Mr. Francis Prince, merchant of Amsterdam. And I make my said wife my sole executrix. Item: I give to my said worthy friend, Mr. Francis Prince, ten pounds to buy him a ring, and do desire he will make up the account with Mr. Abraham Keck, about the pepper, and sell it to the best advantage of my said executrix. Item: I do order and direct by this my last Will that out of such moneys of mine as the said Mr. Francis Prince hath or shall have in his hands, he pay these following legacies, viz.:—To my worthy friend Thomas Walcott, esq., ten pounds, to buy him a ring; to my worthy friend Mr. Robert Fergusson, forty pounds; to my servant, Mr. Anthony Shepherd, fourscore pounds; to my servant, John Wheelock, threescore pounds, to whom I give over and above the said threescore pounds, all my wearing apparel; to my servant, John Grey, forty pounds, all which legacies my will is that my said executrix do allow to Mr. Francis Prince upon his account. Item: I give unto my coachman, Daniel Dale, forty pounds. And I do publish and declare this to be my last will and testament in the presence of the ensuing witnesses, as witness my hand and seal, this seventeenth day

of January, one thousand six hundred eighty and two.

"SHAFTESBURY.[1]

"THOMAS DARE.
"JOHN KIRK.
"HENRY ROTHERHAM."

Shaftesbury's friend and cousin, Sir William Cooper, wrote thus to Stringer, on hearing of the death:—

"*January* 30, 1683.

"DEAR MR. STRINGER,—Mr. Clarke, Mr. Hoskins, and myself, being of opinion that the best way of disposing of my Lord's body will be to convey it to the nearest port to St. Giles, I have accordingly wrote such instructions to Mr. Sheppard, and withal to let me know as soon as he shall arrive, that hearse and coaches may be sent from hence to the port, and what else shall be necessary. Mr. Hoskins, who will be with you before this, will give you at large the reasons of this order, and, therefore, I shall say no more. Oh! Mr. Stringer, I am extremely sad when I consider our great and irreparable loss; but the will of God must be done in this matter, who, I doubt not, hath at once rewarded his great and eminent virtues, and disappointed the hellish designs of his bloody and malicious enemies, for he is now beyond the reach of English cutthroats, or Irish witnesses, and the loss is only on our side. You write me my Lord hath made a

[1] I have obtained this will from Doctors' Commons. It shows the little care with which Mr. Martyn's Life was prepared that he states, following the author of "Rawleigh Redivivus," that Shaftesbury "made his countess and Sir William Cooper the executors of his will, in which he gave very liberally to his grandson, Lord Ashley, and entailed his whole estate upon him after the death of his son. He likewise left great legacies to his friends and servants, particularly to those who had attended him in Holland, besides several others to pious and charitable men." The date of the will is January 17, 1683, according to the present mode of reckoning.

will, which, if it doth not every way agree with the deeds of trust we formerly signed, I fear it will much perplex the business, for you know a deed of settlement will destroy a will, though it should be made and bear date after the deed; and besides if the deeds are not cancelled by my Lord, I fear you cannot any way destroy them now, but that the trustees, having executed the deeds, will be liable to the trust; but I doubt not of my Lord's doing his own business wisely, only I fear the mistakes of some about him. I am glad he hath made my Lady executrix, and if it lies in my power or my wife's to serve her, we shall not fail readily and faithfully to do it.

"I am,

"Your assured friend and servant,

"WM. COOPER."

Locke was ill at Clapham when he received the news of Shaftesbury's death; and he too wrote to Shepherd at Amsterdam, recommending that the body should be sent to Poole.[1] It was sent thither in an English vessel, which left Amsterdam on the thirteenth of February. Shepherd, Wheelock, and another of Shaftesbury's servants went with it. There is probably no truth in statements made by friendly biographers, and adopted by Lord Campbell, that the members of the States of Holland put themselves into mourning for Shaftesbury's death, and ordered that the vessel carrying his corpse and his effects should be exempt from all tolls, fees, and customs.[2] It is more likely to be true, though resting

[1] Le Clerc has very incorrectly stated that Locke joined Shaftesbury in Holland. Locke did not go to Holland till the end of August, seven months after Shaftesbury's death.

[2] Rawleigh Redivivus, p. 125. Martyn's Life, ii. 332. Inquiries were made at Amsterdam, in 1771, by the English Minister in Holland, at

on the doubtful authority of the same biographers, that when the body arrived at Poole many or most of the principal gentlemen of the county, alike political friends and opponents of Shaftesbury, assembled uninvited, and accompanied the hearse to Wimborne St. Giles's, where Shaftesbury was interred. Shaftesbury had always lived on terms of friendship with political opponents; and, though the animosities of politics in his last years had been very bitter, the good feeling of English gentlemen and sympathy and respect for Shaftesbury's widow would very probably have produced such a complimentary demonstration.

No well-conditioned man could have heard, without pity and emotion, of this lonely death of Shaftesbury, far from his wife and all his relatives, far from the young grandson to whom he was entirely devoted, far from all the many friends of worth and intellect and of his own station whom he had long valued, far from his splendid home, which had been his birthplace and residence, and from the many interests connected with it which through life his active and capacious mind had sedulously cared for, far from his country which he loved and for which he had toiled unweariedly, receiving in the end no better return than persecution of revengeful power and necessity of exile to save

the request of Mr. Ewer, a friend of Lord Shaftesbury's family; and the Minister wrote that there was no trace of Shaftesbury's having been made a burgher, that no foreigner could be an upper-burgher, that it was certain that the burgomasters did not put on mourning, and that probably the corpse had not free passage; that there was, at any rate, no record. This information would be more conclusive on other points, if it were not certain that Shaftesbury was a burgher. Inquiries were made in 1774 without success for letters of Shaftesbury said to be in the Remonstrants' Library at Amsterdam.

liberty and life. There was, indeed, little gain for him in that miserable remnant of existence which flight secured as the alternative of a prison and a scaffold. It would have been better also for Shaftesbury's after-fame if he had stayed in England and braved his then inevitable fate. Then assuredly he would have been remembered with some of the love and veneration which accompany the memories of two not more pure or high-minded or unjustly pursued politicians, who, shortly after his death in exile, were in England tried, convicted, and beheaded: of Russell, whose trial, so bravely undergone with the strengthening presence near his side of that angel-lady, his wife, and whose noble refusal, supported by that wife, to buy off death by disowning an honest belief, make one of the most harrowing and touching narratives of English history; and of Algernon Sidney, whose iniquitous execution has made a hero and martyr for all time of one who, otherwise, would probably have been remembered only as a visionary and splenetic politician, whom neither noble birth nor lofty theories of political perfection saved from tarnishing his character by acceptance of French money.

Four years after Shaftesbury's death Charles the Second died, and the Duke of York became King of England. The foresight and reason of the promoters of the Duke's exclusion from the succession were then made clearly manifest. The reign of James the Second and the Revolution which violently drove him from the throne are the amplest justification of the Exclusion Bill and the last excited years of Shaftesbury's public life.

I will briefly sum up the chief results of the preceding investigation into Shaftesbury's political character and career. Having, when just of age, first acted on the side of Charles the First, but not as a vehement partisan, at the beginning of the great Civil War, he went over, shortly after, to the Parliament. But there is no sufficient proof of his having been slighted or offended by the King; there is proof of his having been treated to the last with respect; there is no proof of personal gain or particularly flattering treatment by the Parliament; and Shaftesbury made this change when the prospects of the King seemed, on the whole, and especially in the west of England, better than the prospects of the Parliament. He remained firm to the Parliament from the beginning of 1644, when he left the King's side, to the end of the war and the establishment of the Commonwealth; but he had no part whatever in the execution of Charles the First. He accepted the Commonwealth as an established government, and he accepted Cromwell's authority, which was the only hope of order, after Cromwell had broken the Rump of the Long Parliament. He accepted a nomination to Cromwell's first Convention, acted in it with the moderate party, and as one of this party promoted the abdication of the Convention, which led to Cromwell's Protectorate. He was one of the Council of State named in the written constitution, the "Instrument of Government," under which Cromwell was made Protector. Some twelve or fifteen months after, he left the Council, probably dissatisfied with some of its pro-

ceedings, and very likely disapproving of the abrupt and arbitrary dissolution of the first Parliament of the Protectorate. When the second met, Cromwell treated him as an adversary, and excluded him with nearly two hundred others who had been elected members. He never had any salary for the time that he was member of the Council of State. During the remainder of the Protectorate under Oliver and under Richard, he was an active member of the Parliamentary Opposition, consisting of Presbyterians and of Republicans, and had no connexion or correspondence with the exiled King or his friends. After the fall of Richard Cromwell, he supported the restoration of the Rump of the Long Parliament, became a member of the Council of State, stood by this restored Rump when there came a breach in the Council and Lambert and Fleetwood effected a military revolution, worked zealously and successfully for overthrowing Lambert and Fleetwood and the government installed by them and for restoring once more the Rump, then took the lead in bringing back and adding to this Rump the excluded Presbyterian members, men of his own first party, when he first joined the Parliament, and still always his peculiar party under the Republic or the Protectorate, and in the end worked with the secluded members and with Monk for restoring the King on conditions, there being then no other chance of settled government; and if the King was restored without the conditions which he and the Presbyterians required, for this he was not responsible. Either the unconditional restoration was secretly planned by Monk,

or circumstances and events made hurry a necessity. Seventeen years later, Shaftesbury could confidently write to the restored King that he had held no private correspondence with him, made him no private addresses, betrayed no associate, and never endeavoured to make terms for himself or obtain reward.[1] He could stand up in the Convention Parliament immediately after the Restoration and say that he might speak freely, because he never received any salary under Republic or Protectorate.[2] Having co-operated in the Restoration, and having desired with Monk and others that no blood should be shed, he with Monk and the others was overruled, and he sat, as a party to the Restoration, together with Monk and Montagu, who had been more closely connected with Cromwell than himself, and together also with the Earl of Manchester, Lord Saye and Sele, Lord Roberts, Denzil Holles, and Sir Harbottle Grimston, who had all been rebels against the King, as a Judge to try the Regicides. He had had no part whatever in the execution of Charles the First. It has transpired that, shortly before the Restoration, when he was declining advances from the Royalists, Clarendon wrote that he could not possibly think himself such a delinquent that even his estate would be forfeited.[3] Why, then, should he not have sat, as well as Monk, Montagu, and the rest, in judgment on the Regicides? After the Restoration, he was made a Privy Councillor and Chancellor of the Exchequer, and was for many years a laborious official. He did not intrigue against

[1] See p. 252. [2] See vol. i. p. 242. [3] See vol. i. p. 246.

Clarendon; he had no part in bringing about his disgrace; he endeavoured to soften his fall. As a minister of Charles, supposed to be in his confidence and one of his chief advisers, he, with others of his colleagues equally high-placed, had no knowledge or suspicion of secret arrangements for introducing the Roman Catholic religion by aid of French money and arms, connected with negotiations and treaties for which he was publicly responsible for a French alliance and a Dutch war. He did all that he could to prevent the unjust Stop of the Exchequer, of which he has been often unjustly charged to be the author. When he became convinced of the King's designs for Popery, he threw all the weight of his influence and energy in the Cabinet to breaking the French alliance and ending the Dutch war. He was in consequence dismissed from the Lord Chancellorship. Soon after, he was in vain begged to return, and he refused splendid offers of money and place which the French Ambassador was sent to his house to press upon him. From the time when he ceased to be Lord Chancellor he was the consistent, bold, and indefatigable opponent of a system of government swelling the overgrowth of French power, and degrading England into insignificance abroad and French vassalage. An enlightened friend of religious toleration, he was the opponent of Roman Catholics, not because of their religion, but because of their political dangerousness. Once again he was brought into high office, the King finding his support necessary, and promising to govern according to his views; and within a few months, because his views remained

unchanged, he was once again discarded. After this, offers of high office were again and again made to him, and he persistently refused them. Twice during his bold career of opposition, he was imprisoned. Once he was put on trial for life. Finally, he took counsel with Russell for organizing a rebellion against misgovernment; here he may have been imprudent, but his life was now in danger; there was no security for him against arbitrary power; and before these plans, which, if persevered in, would probably have ended in discomfiture, could be matured, he fled from instant danger of arrest, and died an exile in a foreign land.

During his long political career, in an age of general political corruption, and surrounded by political self-seekers, he was ever incorrupt, and never grasped either money or land. In the days of the Commonwealth he never obtained or sought grants of forfeited estates. In the days of the restored monarchy, he never profited by the King's favour for aught beyond the legal emoluments of office, and, in office or out of office, spurned all and many offers of bribes from the French King.

He was a man of eager temperament, great ability, and high mental cultivation; he was a man of the world, and free from hypocrisy and cant; he was outspoken, courageous, and honest. Honesty is a bad card in public life, where tact is more valued than truth, and servility than independence. Shaftesbury was fond of a simile from Sir Walter Raleigh's writings, that "whosoever shall follow truth too near the heels it may haply strike out his teeth."[1] Raleigh had applied

[1] In the Preface to Sir Walter Raleigh's History of the World.

this to the writing of contemporary history; Shaftesbury transferred it to a politician seeking truth and pursuing it, in opposition to power, and amid the hypocrisies, self-seekings, meannesses, and falsehoods of public men.

The following extract from Locke's beginning of a Memoir of Shaftesbury relates some of the philosopher's own recollections of Shaftesbury's conversation :—

"I remember to have often heard him say concerning a man's obligation to silence, in regard to discourse, made to him or in his presence, that it was not enough to keep close and uncommunicated what had been committed to him with that caution, but there was a general and tacit trust in conversation, whereby a man was obliged not to report again anything that might be any way to the speaker's prejudice, though no intimation had been given of a desire not to have it spoken again.

"He was wont to say that wisdom lay in the heart, and not in the head; and that it was not the want of knowledge, but the perverseness of the will, that filled men's actions with folly and their lives with disorder.

"That there are in every one two men, the wise and the foolish, and that each of them must be allowed his turn. If you would have the wise, the grave, and the serious always to rule and have the sway, the fool would grow so peevish and troublesome, that he would put the wise man out of order, and make him fit for nothing; he must have his times of being let loose to follow his fancies and play his gambols, if you would have your business go on smoothly.

"I have heard him also say that he desired no more

of any man but that he would talk; if he would but talk, said he, let him talk as he pleases. And, indeed, I never knew any one to penetrate so quick into men's hearts, and from a small opening survey that dark cabinet, as he would. He would understand men's true errand as soon as they had opened their mouths, and began their story in appearance to another purpose."[1]

Mr. Peter Coste, a literary assistant and friend of Locke, wrote for publication in Holland on Locke's death, an account of the great philosopher; and in that account is the following passage on Locke's opinions of Shaftesbury:—

"When Mr. Locke studied at Oxford, he fell by accident into his company, and one single conversation with that great man won him his esteem and confidence to such a degree, that soon afterwards my Lord Shaftesbury took him to be near his person, and kept him as long as Mr. Locke's health or affairs would permit. That Earl particularly excelled in the knowledge of men. It was impossible to catch his esteem by moderate qualities: this his enemies themselves could never deny. I wish I could, on the other hand, give you a full notion of the idea which Mr. Locke had of that nobleman's merit. He lost no opportunity of speaking of it, and that in a manner which sufficiently showed he spoke from his heart. Though my Lord Shaftesbury had not spent much time in reading, nothing in Mr. Locke's opinion, could be more just than the judgment he passed upon the books which fell into his hands. He presently saw through the design of a work; and, without much heeding the words, which he ran over with vast rapidity, he immediately found

[1] Locke's Works, ix. 272.

whether the author was master of his subject, and whether his reasonings were exact. But, above all, Mr. Locke admired in him that penetration, that presence of mind, which always prompted him with the best expedients in the most desperate cases; that noble boldness, which appeared in all his public discourses, always guided by a solid judgment, which, never allowing him to say anything but what was proper, regulated his least word, and left no hold to the vigilance of his enemies."[1]

The censures of the vulgar, the unthinking, and the habitually careless are of little consequence in comparison with unfavourable judgments of distinguished writers, who, not free from liability to error, misled perhaps by traditional prejudice, and erring very likely from want of the means of full knowledge, may have powerfully contributed to the maintenance and propagation of unjust opinion.

A not altogether favourable notice of Shaftesbury is found in a private letter of Charles James Fox to Serjeant Heywood, written when Fox was beginning seriously to study for his projected History of the Reign of James the Second.[2] It is possible that the writer would not have wished to be formally committed to posterity by opinions given under such circumstances. Fox in that letter admits that Shaftesbury "seems to have been strictly a man of honour," though he thinks it may be doubtful "if that praise can be given to one destitute of *public* virtue, and who did not consider Catholics as fellow-creatures, a feeling very common in

[1] Locke's Works, x. 167.
[2] The letter is printed at the end of the Preface to that History.

those times." He conjectures that "Locke was probably caught by his splendid qualities, his courage, his openness, his party zeal, his eloquence, his fair dealing with his friends, and his superiority to vulgar corruption." This catalogue of merits and virtues is surely great praise. Mr. Fox thought that ambition prompted Shaftesbury to serve at different times under a Republic, under Cromwell, and under Charles, which is probably what Mr. Fox meant by "the indifference with which he espoused either monarchical, arbitrary, or republican principles;" and he will not therefore allow him to be "a real patriot or friend to our ideas of liberty." But he adds that "he is very far from being the devil he is described." Mr. Fox disapproves of the relentless cruelty with which he persecuted the Papists in the affair of the Popish Plot, "merely, as it should seem, because it suited the purposes of the party with which he was then engaged." Here, referring to what has been already written in this work on this subject, I must express the opinion that Mr. Fox has been misled by misrepresentation and calumny. "You know," says Mr. Fox, "that some of the imputations against him are certainly false, the shutting up of the Exchequer, for instance. But the two great blots of sitting on the Regicides and his conduct in the Popish Plot can never be wiped off." It is my hope that I have substantially vindicated Shaftesbury on both points; others must judge if I have succeeded. "The second Dutch war is a bad business in which he engaged heartily, and in which, notwithstanding all his apologists say, he would have persevered, if he had not found the King

was cheating him." But the King's cheating entirely altered the question. Shaftesbury might fairly have supported the Dutch war simply as such; but when he found that the King began and promoted that war as a stepping-stone to re-introducing into England the Roman Catholic religion with the aid of French money and troops, he did indeed find himself cheated by the King in a matter of prime importance, and he then did all that was in his power to break the French alliance and terminate the war.

Mr. Hallam, who may have derived a prejudice against Shaftesbury from Fox, has done him injustice on several occasions. Thus, perfectly acquitting him of all connexion with the Treaty of Dover of 1670, he unjustly represents his advice for the Declaration of Indulgence of 1673 as "completely within the spirit of that compact," and again unjustly ascribes his support of that Declaration to a desire to conciliate or lull to sleep the Protestant Dissenters.[1] Shaftesbury's object was to do justice to Protestant Dissenters. He did not desire to benefit the Catholics, whom he always feared as a politician. His advice, therefore, was in no way in the spirit of the secret engagements of the Treaty of Dover; and Mr. Hallam even contradicts himself on this point by a subsequent admission of what in fact Shaftesbury at the time proclaimed, that the exclusive benefit of the Declaration was for the Protestant Dissenters, the private worship of Roman Catholics being already indulged by connivance, and the Declaration refusing them the exercise of public worship.

[1] Constitutional History of England, ii. 525, 527.

Mr. Hallam, while doing justice to the purity and integrity of Russell and Holles, in their political intercourse with the French Ambassador, has unjustly omitted to except Shaftesbury together with them from the general readiness of the Whigs, with whom Barillon communicated, to receive French money.[1] He does not, it is true, accuse Shaftesbury of receiving money. That would not have been possible. He enumerates most of the leading Whigs to whom money was given. He does not mention Shaftesbury at all in this connexion. The proofs of Shaftesbury's purity are as strong as those in favour of Russell and Holles.

I have pointed out in this work an inaccuracy of Mr. Hallam, into which the most careful writer might inadvertently fall, when he ascribes to Shaftesbury a letter written to Clarendon before the Restoration, which was from another person of the name of Cooper.[2] It is the fact that Shaftesbury had no correspondence with the King or the King's advisers before the Restoration, while Mr. Hallam's mistake would lead him and others to believe that Shaftesbury was then playing a double part.

In treating of Monmouth's pretensions to the succession, and Shaftesbury's support of Monmouth, Mr. Hallam describes Shaftesbury as "a man destitute of all honest principle." There may be differences of opinion as to the policy of Shaftesbury's proceedings, but a man who was not to be bribed, who refused large offers of money, who twice lost high office by

[1] Constitutional History of England, ii. 545–7.
[2] Ibid. ii. 378 (note). See vol. i. p. 180 (note).

maintaining his convictions, and who often refused office when pressed upon him, cannot justly be described as destitute of all honest principle. I do not say that Shaftesbury was not ambitious; but ambition does not exclude honest principle, and ambition within bounds is a virtue.

Lord Macaulay published in 1836, in his Essay in the "Edinburgh Review" on Sir William Temple, a very severe description of Shaftesbury. In the first volume of his History, published in 1849, he has briefly characterized him, and the few words which he there bestows on him are not more amiable than his longer invective of 1836. He had much relied in his early essay on the diatribe of Dryden, which he called "Dryden's great portrait;" but, by the time of the publication of his history, he had come to the conclusion that Dryden's character was contemptible.[1] Yet he has not recanted his early judgment on Shaftesbury, and has repeated his severities. He says of him in his History that "he had served and betrayed a succession of Governments;"[2] and when speaking of his death in Holland, he says that "he had escaped the fate which his manifold perfidy had well deserved."[3] This work will have been written in

[1] The following are sentences from Macaulay's account of Dryden in his History of England (vol. ii. pp. 198—200):—"He was not a man of high spirit, and his pursuits had been by no means such as were likely to give elevation or delicacy to his mind. He had, during many years, earned his daily bread by pandering to the vicious taste of the pit, and by grossly flattering rich and noble patrons. Self-respect and a fine sense of the becoming were not to be expected from one who had led a life of mendicancy and adulation. Finding that, if he continued to call himself a Protestant, his services would be overlooked, he declared himself a Papist."

[2] History of England, i. 213.

[3] Ibid. p. 268.

vain if these accusations still require disproof. "He had seen," says Macaulay, "that the ruin of his party was at hand, had in vain endeavoured to make his peace with the royal brothers, had fled to Holland, and had died there under the generous protection of a Government which he had cruelly wronged." He fled to save his own liberty and life, which were in imminent danger. He made no endeavour to make his peace with the royal brothers, and made no approach to either of them since his request to the King, when he was in prison in 1681, on a charge of high treason, to be permitted to retire for the remainder of his life to Carolina; and the "cruel wrong" of applying the words "*delenda est Carthago*" to Holland, when England was at war with her, may have been rightly considered by the Dutch as atoned for by ten years of after laborious service in their cause and interest. Speaking of the first Dutch war in alliance with France, Lord Macaulay very inadequately describes the preliminary negotiations, and very unjustly accuses Shaftesbury. "A false treaty," he says, "in which the article concerning religion was omitted, was shown "to Buckingham, Ashley, and Lauderdale, for, unscrupulous as they were, "it was not thought fit to entrust to them the King's intention of declaring himself a Roman Catholic." They may or may not have been unscrupulous; but the King feared that Ashley and Lauderdale at least would not go into his scheme. The withholding, therefore, of the secret from them was to their honour. It was not merely that a false treaty, from which the article concerning religion was omitted, was shown to them, but that the three states-

men were perseveringly duped into negotiating and signing a second treaty, which was the ostensible one for the public, excluding the secret engagements of the Treaty of Dover, which still remained binding. But Buckingham, Ashley, and Lauderdale, says Lord Macaulay, "were not men to be easily kept in the dark, and probably suspected more than was distinctly avowed to them." It is quite clear that they suspected nothing. "They were certainly privy to all the political engagements contracted with France, and were not ashamed to receive large gratifications from Louis." But the political engagements contracted with Louis were not the disgraceful secret provisions of the Dover Treaty, and Shaftesbury received no gratification.

I now go back to Lord Macaulay's earlier Essay on Sir William Temple, and will take his accusations *seriatim*.

1. "It is certain that, just before the Restoration, he declared to the Regicides that he would be damned, both body and soul, rather than suffer a hair of their heads to be hurt, and that, just after the Restoration, he was one of the Judges who sentenced them to death."

The speech made to the Regicides, attributed to Shaftesbury before the Restoration, is a private conversation with Colonel Hutchinson, described by his widow; and the story rests only on the authority of that virtuous and interesting but very passionate lady.[1]

[1] Mrs. Everett Green, whose admirably prepared Calendars of papers in the State Paper Office of the reign of Charles II. are, so far as they have gone, such valuable contributions to true history, published in

Shaftesbury was not in a position to give an authoritative promise to the Regicides in a body. The speech, if made, indicated his own desire; but events and superior power overruled him. No exception for life from the Act of Indemnity would have been made, if Cooper or Monk had been supreme; but the Restoration was an act of mutual compromise, and Cooper and Monk, with several other Cromwellites and Presbyterians, sat upon the trial.

2. "It is certain that he was a principal member of the most profligate administration ever known, and that he was afterwards a principal member of the most profligate Opposition ever known."

It is established that Shaftesbury was individually innocent of the profligate Stop of the Exchequer, and of the profligate secret engagements with Louis XIV., of what is indiscriminately called the Cabal Ministry. If the Opposition, of which he was afterwards a leader, is the most profligate ever known, Russell, whom Lord Macaulay venerates, not to mention other honourable and distinguished men, was as supremely profligate as he.

3. "It is certain that, in power, he did not scruple to violate the great fundamental principle of the Constitution, in order to except the Catholics, and that, out of power, he did not scruple to violate every principle of justice, in order to destroy them."

the *Athenæum* of March 3, 1860, a letter of Colonel Hutchinson to the House of Commons, expressing the most abject contrition, and appealing with respect to Sir Anthony Ashley Cooper as a witness to his endeavours to save Charles the Second for the Restoration. This letter was written for her husband by Mrs. Hutchinson.

The Declaration of Indulgence was not intended by Shaftesbury to exalt the Roman Catholics. It was intended by him for relief of the Protestant Dissenters. He consoled himself as to the Roman Catholics by the knowledge that they gained nothing from the Declaration beyond what they then practically enjoyed. The dispensing power, so far from being then regarded as a violation of "the great fundamental principle of the Constitution," had many advocates of high authority, and much support from precedent. The question has, since that time, been settled against the King's power of dispensing with ecclesiastical laws. That out of power he did not scruple to violate any principle of justice in order to destroy the Roman Catholics is an accusation which would make Shaftesbury a fiend, which is unproved and unprovable, and which, if true, would equally apply to Russell and many other honourable and distinguished associates. Lord Macaulay repeats this accusation under another form in saying: "To judge of him fairly, we must bear in mind that the Shaftesbury who, in office, was the chief author of the Declaration of Indulgence, was the same Shaftesbury who, out of office, excited and kept up the savage hatred of the rabble of London against the very class to whom that Declaration of Indulgence was intended to give illegal relief." But as the Declaration of Indulgence was not intended for relief of Roman Catholics, and the illegality of the Declaration was far from being then settled or clear, Lord Macaulay's judgment is not fair.

4. "It is amusing to see the excuses that are made for him. It is acknowledged that he was one of the Ministry which made the alliance with France against Holland, and that this alliance was most pernicious. What, then, is the defence? Even this, that he betrayed his master's counsels to the Electors of Saxony and Brandenburg, and tried to rouse all the Protestant Powers of Germany to defend the States."

The defence which Lord Macaulay, with rhetorical skill, thus turns to aggravation of attack, was derived solely from a statement in Mr. Martyn's Life, which is altogether improbable, for which I have been unable to discover among the papers at St. Giles's any authority or confirmation, and which I do not hesitate to describe as one of the exaggerations or fables of Shaftesbury's indiscreet eulogists.[1] Mr. Martyn at any rate is the sole defender of this amusing *genus*. It is certain that, when Shaftesbury discovered Charles's Roman Catholic designs and engagements, he worked zealously in the Cabinet and Privy Council to terminate the Dutch war. Even if he had private communications for this purpose with Protestant European Governments, it would be difficult to condemn with severity the betrayal by a Minister of the King who had duped and cheated him, and who sought to betray and enslave the nation.

5. "Again, it is acknowledged that he was deeply concerned in the Declaration of Indulgence, and that his conduct on this occasion was not only unconstitutional, but quite inconsistent with the course which he afterwards took respecting the professors of the Catholic faith. What, then, is the defence? Even

[1] Martyn's Life, i. 407.

this, that he meant only to allure concealed Papists to avow themselves, and then to become open marks for the vengeance of the public."

Disapproving of the dispensing power in itself, I cannot acknowledge that it was unconstitutional in 1673, and I do not know where this absurd and monstrous defence for Shaftesbury has been made. It was not his own defence, nor is it an appropriate one. The Declaration was intended for the benefit of Protestant Dissenters.

6. I have already noticed, in criticising Lord Macaulay's statements in his History, charges such as those which occur in the earlier Essay, that Shaftesbury had been "a traitor to every party in the State," and that "he died in hopeless exile, sheltered by the generosity of a state which he had cruelly injured and insulted." He was so sheltered, Lord Macaulay goes on to say, "from the vengeance of a master whose favour he had purchased by one series of crimes and forfeited by another." The first set of crimes are the acts of the so-called Cabal Ministry, of Shaftesbury's part in which I need say no more; the second are his proceedings in Opposition, the prosecution of the Popish Plot, the efforts for the Exclusion Bill, the support of the Duke of Monmouth for the succession to the throne, and ultimately the scheme of insurrection, in each and all of which Lord Russell, an idol of Lord Macaulay, went hand in hand with him.

If I did not feel convinced, whether rightly or wrongly, that the specific charges of Lord Macaulay are severally unjust, I should have been deterred from undertaking and prosecuting this work by his stern

and solemn warnings to any one who would defend Shaftesbury. Mr. Martyn's Life had been recently published when Lord Macaulay wrote his Essay on Sir William Temple. Referring to Martyn's work, he presumes that "the disposition which some writers have lately shown to eulogize Shaftesbury" is to be explained only by comparison with a favourite practice among the Greek Sophists of writing panegyrics on characters proverbial for depravity." Any attempt to clear Shaftesbury he pronounces vain. "The charges against him rest on evidence not to be invalidated by any arguments which human wit can devise, or by any information which may be found in old trunks and escritoires." This is not all. Founding on the two specimens which he has given, and which I have noticed, of defence of Shaftesbury making, as he thinks, the case worse against him, Lord Macaulay proceeds:—

"As often as he is charged with one treason, his advocates vindicate him by confessing two. They had better leave him where they find him. For him there is no escape upwards. Every outlet by which he can creep out of his present position is one which lets him down into a still lower and fouler depth of infamy. To whitewash an Ethiopian is a proverbially hopeless attempt; but to whitewash an Ethiopian by giving him a new coat of blacking is an enterprise more extraordinary still. That, in the course of Shaftesbury's dishonest and revengeful opposition to the Court, he rendered one or two most useful services to his country we admit. And he is, we think, fairly entitled, if that be any glory, to have his name eternally associated with the Habeas Corpus Act in the same way in which the

name of Henry the Eighth is associated with the Reformation of the Church, and that of Jack Wilkes with the most sacred rights of electors."

I place these statements, recommended as they will be by Lord Macaulay's name and fame, before readers, who will, I trust, fairly compare them with the statements and arguments of this work. I did not begin this biography from partiality; I desired to obtain and tell the truth as to a celebrated English statesman, whose story had never been carefully or fully told: I may have been influenced, as I proceeded, by more or less of that attachment which a biographer is apt to form for his subject; but my desire has been to investigate facts honestly and thoroughly and to arrive at truth; and my belief is that Shaftesbury has been abominably calumniated.

APPENDICES.

APPENDICES

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Fragment of a Memoir of the Earl of Shaftesbury by Thomas Stringer, 1672–3.

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Letters during the Lord Chancellorship:—1. Letter from Sir William Morrice, written probably in the end of 1672, asking favour for his son. 2. Letter from M. Cronstrom, January 1, 1673, congratulating on appointment of Lord Chancellor. 3. Three Letters from the Earl of Essex, Lord Lieutenant of Ireland, March, April, and May, 1673, on Irish affairs, and chiefly against a projected

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grant of Phœnix Park to the Duchess of Cleveland. 4. Circular Letter from Lord Chancellor Shaftesbury to the Bishops, August 4, 1673, asking for information about sequestrated livings. 5. Letter from Sir Harbottle Grimstone, Master of the Rolls, to Lord Chancellor Shaftesbury, August 10, 1673, answering a complaint about the state of the Records.

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Speeches during the Lord Chancellorship :—1. Speech on swearing in Lord Clifford as Lord High Treasurer, November 28, 1672. 2. Speech on swearing in Mr. Serjeant Thurland as a Baron of the Exchequer, January 24, 1673. 3. Speech as Lord Chancellor to the two Houses, informing them of the King's pleasure for the election of a new Speaker, February 4, 1673. 4. Two speeches to Sir Job Charlton, on his being presented for the King's approval as Speaker, February 5, 1673. 5. Speech to the two Houses of Parliament as Lord Chancellor, by the King's command, after the King's Speech at the opening of the Session, February 5, 1673. 6. Two speeches to Mr. Edward Seymour on his being presented for the King's approval as Speaker of the House of Commons, February 18, 1673. 7. Speech on swearing in Sir Thomas Osborne as Lord High Treasurer, June 26, 1673. 8. Speech to the two Houses of Parliament as Lord Chancellor, by the King's command, after the King's speech at the opening of the Session, October 29, 1673.

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Speeches after the Lord Chancellorship :—1. Reasons against the Bill for the Test, being heads of a speech or speeches in the House of Lords, in May 1675. 2. Substance of a speech on Protestant doctrine in the debates on the Test Bill, May 1675. 3. Speech on appointing a day for the hearing of Dr. Shirley's appeal from the Court of Chancery, October 20, 1675. 4. Speech in the King's Bench in support of his application to be released from the Tower, June 29, 1677. 5. Speech on the claim

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of Robert Villiers to the title of Viscount Purbeck, June 18, 1678 6. Speech on the state of the nation, March 25, 1679. 7. Speech in a debate on the King's speech, December 23, 1680.

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Letters and Papers after the Lord Chancellorship:— 1. Letter from Sir Robert Southwell, January 3, 1679, enclosing copy of deposition of John Lund, relating to a design against Shaftesbury's life. 2. Despatch of M. Barillon, French Ambassador, to Louis XIV., April 21, 1679, on the new constitution of the Privy Council. 3. Instructions for members of the Parliament summoned for March 21, 1681, and to be held at Oxford. 4. Letter from John Locke to Stringer, March 26, 1681, giving an account of the proceedings of the Parliament held at Oxford, March 1681. 5. Despatch from M. Barillon, French Ambassador, to Louis XIV., March 28, 1681, relating a conversation between Shaftesbury and the King at Oxford about the Duke of Monmouth and the succession. 6. Notes of proceedings in the Committee for Foreign Affairs of the Privy Council, June 21, 1681.

APPENDIX VIII. cxxiii

Letter from Mrs. Hill, formerly Mrs. Stringer, widow of Thomas Stringer, Shaftesbury's Secretary, to Lady Elizabeth Harris, Shaftesbury's granddaughter, written probably in 1734.

APPENDIX I.

Memorial of Lord Ashley to King Charles II. on Indulgence to Dissenters, Naturalization of Foreigners, and Registration of Titles to Land, probably submitted in 1669.[1]

MAY IT PLEASE YOUR MAJESTY,

When I had the honour to wait on your Majesty at Windsor, you was pleased to enter into some discourse of

[1] It is to be presumed that this paper was written in 1669. The act against Conventicles spoken of as the "late act" had expired in November 1668. Mr. Martin erroneously states that this act had expired early in 1668, and assigns Lord Ashley's memorial to the beginning of that year. In the session of Parliament which began on October 19, 1669, the House of Lords, a few days after its reassembling, appointed a numerous Committee "to consider of the causes and grounds of the fall of rents and decay of trade within the kingdom." Mr. Martyn states incorrectly that this Committee was moved for by Lord Ashley. Lord Ashley was added to the Committee after its first appointment by a special vote on October 27. The Earl of Essex was Chairman of the Committee, which made reports much in accordance with the views expressed in Lord Ashley's paper. In the first report, presented November 24, the Committee recommended—"1. That the interest of money be reduced to four pounds per centum, and that a bill be prepared for that purpose: 2. That one cause of the decay of rents and value of lands is the uncertainty of titles of estates, and as a principal remedy for this, their Lordships offer it as their opinion to this House that there be a bill of registers for the future: 3. That the want of people in England is one of the causes of the decay of rents, and one chief remedy for this is to have a bill of naturalization." On December 9 the Earl of Essex made a further report from the Committee, "that some ease and relaxation in ecclesiastical matters will be a means of improving the trade of this kingdom." The Lords, having taken into consideration the first recommendation of a reduction of the rate of interest, ordered the Earl of Anglesey, Lord Halifax, Lord Lucas, and Lord Ashley, "to make choice of three or four of a side of the ablest persons they know to speak for it and against it," before a Committee of the whole House. A few days afterwards the same Lords,

the decay of land rents and trade, and the remedies of it; which hath given me the confidence to offer your Majesty these ensuing considerations of mine on that subject; and if your Majesty shall find in them but half that weight of reason which I am sure they have of honest zeal to your service, I shall not doubt but you will pardon this my address.

First: I take it for granted, that the strength and glory of your Majesty, and the wealth of your kingdoms, depend not so much on anything as on the multitude of your subjects, by whose mouths and backs the fruits and commodities of your lands may have a liberal consumption in proportion to their growth, and by whose hands both your Majesty's crown may be defended on all occasions, and also the manufactures of both your native and foreign commodities improved; by which trade and your Majesty's revenue must necessarily be increased.

Secondly: That of late years the lands of your kingdoms have been exceedingly improved, as to the production, by enclosing of wastes and manuring them to tillage and pasture; and, in the meantime, the number of your Majesty's subjects by the confluence of many unhappy accidents has been extremely lessened; for the late plague and war did (by a reasonable calculation) sweep away above two hundred

with the addition of Lord Berkeley of Berkeley, were ordered to choose some further persons to give more information about the lowering of interest. Ultimately the Committee of the whole House reported through Lord Essex in favour of the lowering of interest from six to four per cent.; but the House rejected the recommendation. (Lords' Journals, November 26, December 1, 3, 1669.) As regards registration of titles the House of Lords ordered, December 9, on a recommendation of the Committee of the whole House, "that any Lord may have leave to offer a bill concerning registers to the said Committee for their debate, and that all the judges might be appointed to be present, to assist the said Committee at the same time before the said bill b offered to the House." Parliament was prorogued on December 11, and no further proceedings took place with reference to this Committee. When Parliament met again on February 14, 1670, the House of Lords immediately renewed the Committee on decay of trade and fall of rents; but there is no mention in the Journals of any further report. A new act against Conventicles was passed before Parliament adjourned in April. Parliament met again in October and sat till April 1671. A bill of naturalization was then sent down by the Lords to the Commons, but was not passed by the Lower House. The Lords also in the same session referred to a Committee the bringing in of a bill for registration of titles. (Journals, December 6, 1670.) But nothing further appears to have been done in the matter.

and fifty thousand persons more than the usual course of mortality would have done.

Thirdly: A considerable number of your Majesty's subjects are constantly transported to the American plantations for servants, and also transport themselves to those and other parts to enjoy the liberty of their mistaken consciences; and our products of lands thus increasing, and the persons decreasing who should make the consumption of them, it must necessarily follow that the value of our lands must be reduced to a disability of maintaining the owners and paying your Majesty's necessary aids; and our manufactures become few and so costly, that they will not be tendered to foreign markets at such rates as our neighbours can afford them; whereby the merchant must lose the trade, and your Majesty the revenue of it.

If this be admitted to be the cause of the decay of rents, then, certainly, the recovery must be by using all rational and just ways and means to invite persons from foreign parts to supply the present defect, and stop the drain that carries away the natives from us.

In order whereunto, it is humbly offered to your Majesty, whether any other expedient whatsoever will be effective to this great and good end without granting that liberty in their religion which every man is fond of; and on what mistakes soever their profession be taken up, whether in point of blind zeal or in point of reputation, they will hardly recede from it for any consideration, as we find by too sad experience of the many factions which the late unhappy times have made among us, whom no severity of law in the execution thereof can reclaim to the Church of England.

It seems to me, that the late act against conventicles hath put it out of question that a toleration is lawful; for it tolerates any Dissenters from the Church of England to worship God after a different manner, provided they do not assemble in a greater number than is limited by the statute, which limit, I suppose, was set on the single consideration of preserving the public peace. If public peace then may be preserved with it, it is not unlawful to remove that pale so far as may do the work of the present design, of retaining those Dissenters who are among us, and attracting others from abroad. And that a toleration may be made to consist with the public peace and tranquillity of the present established government both in Church and State it is humbly proposed:

First, that no person whatsoever shall be admitted to bear any office, ecclesiastical, military, or civil, of trust or profit, but such as can by the legal test prove themselves conformists to the doctrine and discipline of the Church of England.

Secondly, that no person whatsoever shall enjoy this proposed liberty but such as shall without the coercion of law pay all tithes and duties due from him to the church, parish, and poor.

Thirdly, that all persons, of what separate persuasion soever, who are members of any corporate town, shall be eligible to any corporation office, and required to give legal testimony of their conformity, and upon their refusal thereof, be declared incapable to execute the office, and shall pay such fines, and undergo such penalties, as a conformist is liable to in case of his refusal of the like office.

Fourthly, that in regard the laws have determined the principles of the Romish religion to be inconsistent with the safety of your Majesty's person and government, and that those fanatics of the fifth monarchy are professed opposers of all human government, both of them may be excluded from this proposed liberty.

And with these limitations and exceptions,

That all and every other sort of nonconformists may have liberty to assemble, for the exercise of their own manner of worship, in such public places as the nonconformists can procure; and that the doors of the meeting places do stand open to all while they are at their exercise of prayer or teaching.

These expedients may, it is humbly conceived, reasonably secure the public peace. But as, without this proposed liberty, our desired number of people will not be obtained, so this alone will not be effectual; because men do and may enjoy it in other places, and therefore they must be invited by other temporal advantages. In order whereunto it is humbly proposed:

First, that a general act of naturalization may be passed, with this addition, that all and every artificer or tradesman may freely exercise his art or trade in any part of the kingdom; provided that if they settle themselves in any city or town corporate, where their trades are put under a regulation, they become members of that company which is or shall be erected for the government of them; and either by the usual oath or by bond give security for their due observance

of the ordinances and by-laws of the society; and that the society be required to admit them for such reasonable fines as the magistrates of the place shall think fit.

And as these expedients may probably attract a multitude of merchants, and other people of inferior condition and trades; so there is yet one other, absolutely necessary to the obtaining the accession of men of estates and money, and that is:

The making all real estates an infallible security to the purchaser or lender, which is provided for by a public register in most parts of Europe; and if your Majesty shall think fit to establish the like here by your authority in Parliament, it is humbly conceived that such a method may be proposed as in a few years may put men's estates beyond all scruple of their title, without prejudice to any honest man, and to the general good of all your Majesty's subjects; and, no doubt, when such security may be had for the purchaser or lender, we shall need no other attractives to bring from our neighbours in foreign parts a great addition of wealthy families to plant themselves and their posterity among us, when they may have a retreat into a well-tempered government, enjoy all the immunities, rights, and privileges of it as natives, together with the liberty of their consciences, and fix themselves in purchases of estates in whose title they cannot be defrauded; and likewise make a greater interest of their money than they can where they now are, on the like security.

ASHLEY.

Extract from Martyn's Life of Shaftesbury, vol. i. *pp.* 378-81, *describing Lord Ashley's advice to King Charles II. in* 1670 *for development of commerce.*[1]

Lord Ashley showed him [the King] that the interest of commerce, though formerly neglected, was become an express affair of state with France, as well as with Holland and Sweden: that France began to find trade of more conse-

[1] Mr. Martyn's account is doubtless derived from some authentic paper which he saw at St. Giles's; it may be from the part of Stringer's Memoir which I have not found. Martin attributes to this advice the appointment, in July 1670, of the new Council of Trade and Plantations, of which the Earl of Sandwich was made President. After the death of Lord Sandwich, Shaftesbury was appointed President, September 12, 1672; and he continued President until April 1676, when the Council was dispensed with.

quence towards advancing her power than any army or territory, though ever so great, as it drew such wealth along with it, and gained such force at sea by shipping; and, therefore, since the advantages of commerce were so well understood by our neighbours, it required more attention in our Government: that commerce, as an affair of state, was widely different from the mercantile part; this consisting principally in the knowledge of what goods are fittest to be exported from one place to another, and what commodities are most convenient to make returns in, and the nature and course of exchange; but that trade, as a point of policy and government, consisted of many articles: in countenancing our merchants abroad, as the proper stewards or purveyors of the public stock, wealth, and interest of the nation: in asserting those privileges, immunities, freedoms, and exemptions of any kind, which, by the wisdom and vigilance of any former age, have been gained or capitulated for: in taking care of the just dealings of our merchants abroad, that the manufactures exported be without fraud, merchantable, and good, that the credit of them may be as current as our coin: in endeavouring, as much as possible, to exonerate our own commodities of and from all such taxes and impositions abroad as are discouraging to the trade of them; and in watching, and vigorously opposing, any new tax to be laid on them, different either from ancient custom, or from the articles of commerce in force between any respective State and England: in considering how and by what means we may, with most prudence, discourage and prevent any manufactures of our neighbours which may be a prejudice to England; especially, if any part of those manufactures be dependent upon us, or upon any neighbouring state or prince in amity with us: in considering how to increase our own manufactures, and how to invite or reward the bringing in or inventing of others; particularly such as are most necessary for us, or with which we may supply our neighbours: in keeping a vigilant and constant correspondence abroad for carrying on the aforesaid ends: lastly, in giving all encouragement to the promoting of our fishery and advancing our plantations, the increase of our shipping and multiplying our seamen. He told the King that many of these things did not lie within the prospect of the merchant, much less within his power, care, or consideration; and, therefore (the distinction being made between the magistrate's and the merchant's duty), he proposed that, instead of

a Committee of the Privy Council, a select Council might be established, whose employment should be to take care of the welfare of our colonies, and the trade and navigation of the kingdom; to receive and consider all propositions offered them for the benefit and improvement of commerce and navigation, and to present their opinion and advice upon the same to the King: that the Council should consist of such gentlemen as would be more concerned in the generality of the trade of the nation, and the right management of it, than in the profit of any particular trade, which might possibly have too much sway with private merchants: that their commission should be probationary, and that the powers of it should not be continued above twelve months; by which the members might know that, unless they gave some evidence of their regard to the commission, and of their prosecuting with diligence the design of the trust, they must not expect to be continued.

APPENDIX II.

Memoir of M. Colbert de Croissy, French Ambassador in London, addressed to Louis XIV., June 7, 1672, on the state of affairs in England, and the views of Charles II. about the Dutch war and establishment of the Roman Catholic religion.[1]

(Translated from the original in the Archives of the French Foreign Office.)

YOUR Majesty knows that the principal motive which has engaged the King of England to make a close union of friendship and interest with you is the protection which your Majesty gives to all friends and allies, of which protection he has always hoped to feel the powerful effects in the execution of his design of changing the present state of religion in England for a better, and of establishing his authority so as to be able to retain his subjects in the obedience which they owe to him.

Thus your Majesty will doubtless be of opinion that at present the King of England has fulfilled his chief obligation by putting to sea a fleet even more numerous and better equipped than he had promised, and that he has every reason to hope that God will bless so just and holy a cause with every kind of prosperity both by land and by sea. He gives all his care and all his thoughts to finding the means of bringing most of his subjects to follow his example, and at the same time of obliging the seditious to their duty. These two

[1] I have selected for publication from the Archives of the French Foreign Office this important Memoir, which is only slightly referred to by Dalrymple and Mignet, and which convincingly proves the sincere intention and great anxiety of Charles II. to endeavour to establish the Roman Catholic religion in England. (See pp. 17 and 89 of this volume.) The war in conjunction with France against Holland had begun in March 1672.

points have formed the whole subject of the conferences which I have had during the past month with the King of England and with Lord Arlington, who at present has justly the chief part in the confidence of the King his master, and who has lately received a new mark of his esteem, the King having asked for his only daughter to marry my Lord Henry, the least doubtful and the most loved of the children he has had by the Duchess of Cleveland.[1]

This Minister has proposed to me on the first of these two points that your Majesty should have the kindness to instruct the Duke d'Estrées to support the requests which will be made of the Pope in the King of England's name by the ecclesiastic whom he sends to Rome, among others a request for the sacrament in both kinds as a favour to the English who desire this concession in order to become converts, and a request for permission to say the mass in the vulgar tongue, giving me to understand that if the Holy See would so far condescend, most of the Bishops and, following their example, almost all the Protestants of England, would reunite themselves to the Roman Church. I have represented to him all the reasons which the Council of Trent had for deciding that in the communion bread only should be given to the laity according to the ancient practice of the Church, and I added that I did not think, however much the Pope might desire to do all in his power to reunite England to the Catholic religion, he would be able or willing to undo what had been resolved by an œcumenical council, that we should find the same obstacle in the way of the second request, and that thus it was not reasonable to insist strongly on conditions which it would be impossible for his Holiness to agree to. He did not condemn my opinion, but he informed me that the King his master would be extremely pleased if the

[1] Arlington's daughter was at this time four years old, and Charles's son, Henry Fitzroy, not yet nine. The young pair were betrothed with all the solemnity of a marriage on August 1, 1672; and they were remarried on November 6, 1679. The young bridegroom was, on the occasion of the betrothal, created Earl of Euston, and afterwards Duke of Grafton. This marriage is referred to in Nahum Tate's Second Part of Absalom and Achitophel, in describing Arlington (Eliab); Othniel is the Duke of Grafton, and David is Charles.

> "His age with only one mild heiress blest,
> In all the bloom of smiling nature drest;
> And blest again to see his flower allied
> To David's stock, and made young Othniel's bride!"

Pope would send the Cardinal d'Estrées as Legate, judging that a skilful and well-disposed Frenchman like him would find more expedients and means of attracting the people to the Roman Catholic religion than a Legate of any other nation, and that, not being able to grant these two concessions, he would perhaps find means of compromise on these and on all other points capable of satisfying the Bishops and the people. He also asks, that, as his Holiness cannot send a Legate to England till after the King has declared himself Catholic (which he pretends that he will do at the end of this campaign), your Majesty would be kind enough to order the Bishop of Auxerre to come into England, under the sole pretext of seeing me, but really to give them secretly his opinions and advice on all the difficulties which may arise in ecclesiastical matters; but as I at first attributed this request rather to a desire to oblige me than to reasons of public necessity, I for some time excused myself from writing about it, by suggesting the noise which would be made in France and England about the services of the Bishop of Auxerre in my house, and the strong suspicion which might arise as to the real reason of his presence. But in the end, pressed by the King of England as well as by my Lord Arlington, I have thought it my duty to inform your Majesty also of this request, for you will judge better than I can do whether it should or should not be evaded. The King desires above all things that the Cardinal and the Duke d'Estrées should both work in this business so as to let the Pope know the interest which your Majesty feels in the King of England's having satisfaction in spiritual as well as in temporal matters, and in everything so proceeding that he may be able to make his declaration at the end of the campaign.

But if there will be trouble in obtaining from the Pope the conditions desired by the King of England in order to bring the best-intentioned of his subjects to embrace the Catholic religion, there will be still more, according to all appearances, in keeping the ill-intentioned in their duty. For it is certain that the declaration which the King of England has published for liberty of conscience, the signs or rather almost certain proofs which the Duke has given of his conversion, and the suspicions which are also entertained of the conversion of the King himself, have so strongly irritated all other religions against the government that one sees nothing but libels and seditious writings. My Lord

Arlington has shown me one which gives a perfectly true account of the designs of the King of England, and tries to unite Protestants and Presbyterians against the common enemy, who, it says, are the Pope, the King of England, and his Ministers, so that there is great reason to fear that if the King, who is entirely out of money and credit, is obliged to assemble his Parliament in order to endeavour to obtain from them the necessary assistance for continuing the war, not only will he not obtain sufficient assistance, but even the little which may be given him will be under conditions so harsh and so contrary to his designs and his engagements with your Majesty, that he will be obliged to dismiss it, and then he can hope for no more aid from his people. The factious will cloak themselves under the pretext of maintaining religion and the privileges and liberties of the nation: and we shall perhaps see England fall again into the same disorder and confusion which existed at the beginning of the last troubles.

The King of England, who foresees clearly that trouble may arise for him from the conduct he is pursuing, and who displays every day more firmness and zeal in maintaining the close alliance he has made with your Majesty, as he perceives the cabals of his court and of the town bent on destroying it, took me two days ago into his study to relate to me his thoughts on this subject, and, after having spoken to me for some time on his declaration of being a Roman Catholic in the same way as Lord Arlington, and after having expressed his perfect satisfaction with all that your Majesty has done for him up to the present moment, he told me that nothing in the world could detach him from your Majesty's alliance and interests, and that, if you are satisfied with the exertions which he has made this year to strengthen his fleet beyond what he had promised, he could assure me you would not be less satisfied with what he would do next year at sea to co-operate with you for destroying the power of the United Provinces, provided he can incline his Parliament to grant him the aids he requires for continuing this war, that in truth the great forces which the United Provinces have by land and sea should convince all his subjects of the necessity of union with your Majesty to humiliate a power so formidable to its neighbours and especially to monarchies, that the greatest part of the members of the Upper House were already of his opinion, and that as to the Lower House, as the greater

number of those who compose it were tied to his interests either by offices or by pensions, and all by the fear of a dissolution of the Parliament which would expose them to free pursuit by their creditors, there would be reason to expect all that could be desired, were it not that the conduct which the Duke of York has pursued in the matter of religion has excited among them so much discontent that he no longer knows what to hope, that thus his plan is to employ himself till the time when Parliament should meet in gaining those of the House of Commons who have most followers. But that if he could not make sure of a majority, he was resolved to adjourn Parliament again two days before the existing adjournment expired, because it would be too dangerous to assemble it in so delicate a conjuncture of affairs if there were reason to doubt its intentions. He begged me to keep secret what he had confided to me, and told me that, whatever might be the upshot, I should find him always in the same disposition to contribute as far as lay in his power to the good success of this war, but that I knew how much his money and credit were exhausted, and how impossible it is for him to support this affair with all the vigour he desired without the aid of Parliament, that he would take care not to ask your Majesty for any addition to the aid which you had promised, and that, as you were already burdened with excessive expenses, it was not just to beg you from here to do more than you are bound to by the treaty; that if he could by other means raise some pecuniary aid, he would joyfully spend to the last penny to reduce the Dutch to the terms which your Majesty and he wished to impose on them. I told him that it was quite true that, though your Majesty had fulfilled all you had promised in the treaty, it had nevertheless not been without great trouble and without making the greatest possible efforts that you had met the infinite expenses caused by this war, and that I hoped that the good success with which it would apparently be followed both by land and by sea would dispose his Parliament to grant him the aid he wanted; that however I would not fail to inform your Majesty of what he had been pleased to confide to me. My Lord Arlington, who has often spoken with me on the same subject, has added to all that I have just said, that if the King his master had not had complete confidence in your Majesty's generous protection, and had not felt persuaded that you would not abandon him in the extremity of his need,

he neither could nor would have engaged in an enterprise in which there is much more to be feared than to be hoped for him. But that he had already so many reasons for being satisfied with your Majesty's friendship and good faith, that there was no danger which could divert him from proving his own in every way, and that I could feel assured that he would not change his opinions; that thus there was nothing to wish, but that Parliament would give him the means of making his good will efficient; but that there was much more reason to fear misfortune from their deliberations than to count on supplies; and that, if the King his master could be assisted in any other way, either by the Holy See or by the clergy of France, he thought the best course would be not to assemble the Parliament. I have given the substance and almost the very words of the conversations I have had for a month past with the King of England and Lord Arlington. However, this minister, speaking with me yesterday on the same subject, gave me to understand that the King his master, and he feared I also, had taken their representations as a deliberate plan of asking, or rather, to use his own language, of swindling fresh sums of money from your Majesty, and that there I should wrong him, his intention having been only to make me a sincere confession of the state of the affairs of this kingdom, in order to be strengthened by your Majesty's advice on what remains to be done for the execution of the designs which had been proposed; viz. the establishment of the Roman Catholic religion and the humiliation of the States General of the United Provinces, and that even if the good success of the arms of the Kings our masters both by land and by sea did not dispose Parliament to do its duty, one should not yet despair of finding some other extraordinary means of carrying on the war.

After having thus explained what has been told me by the King of England and by his chief minister, there are two questions to be now examined, and it is necessary to know soon the sentiments of your Majesty thereupon in order to prepare the King of England in time: 1°. If it suits your Majesty that Parliament should meet next October, or if it is desirable to procure a further adjournment; and 2°. If we should strengthen the inclination which the King of England may have to declare himself a Catholic at the end of this year, and the pressing entreaties of the Duke of York that he should do so, or if, on the contrary, we should

support the reasons which may lead the King to postpone the declaration to next year, when, according to all appearances, the Dutch will be sufficiently humbled to be unable to cause any difficulty.

As to the first point, it is certain that the whole Parliament is persuaded that the King thinks of nothing but re-establishing the Catholic religion in his kingdom, and of acquiring at the same time an authority more monarchical and more absolute than that which he and his predecessors have enjoyed till now. Both these objects are equally evident to all those who are not either Catholics or undecided in their religion and entirely royalist; and as it is also known that the King would never succeed in his designs if he had not the support of your Majesty, we must consider sure that, whatever promises may be made to the King by the chief members of the Parliament, they will be no sooner met than they will wish to oblige him to make peace with Holland, renew a close alliance with that Republic, renounce the alliance which he has made with your Majesty, re-establish the penal laws against the Catholics, and accept all the other precautions which they will desire to take in order to ruin entirely the religious project. They will also have power to exact from him the removal of the chief Ministers, and will not be willing to grant him any assistance without these unjust conditions, rather than consent to which he will be obliged to get rid of them, and then all the members of the Lower House will be capable of carrying sedition throughout the kingdom, and reducing the King their master to the state not only of being unable to make the same efforts for continuing the war, but even of needing very strong assistance from your Majesty to retain his crown, so that it does not seem to me the part of prudence to expose him to all these dangers, and that we should bring the King and his ministers to a re-adjournment of the Parliament. It is true that the King finds himself at present, as I have said, without money and without credit, his revenues, which consist chiefly of import and export duties, diminishing very much during the war, and his expenses increasing every day by the purchase of arms, which he continues making to strengthen his fleet, as well as by the raising of the regiments of Prince Rupert, the Duke of Buckingham, and of some other troops, and by the fortifications of the places which are necessary for the safety of his dominions, and also because he is not served

faithfully either in the collection or in the expenditure of his revenues, though my Lord Clifford, who is one of the chief administrators, is incorruptible and does all that he can for the good service of his master. As to the extraordinary funds which they hope to get, I think that they can only come from the alienation of some lands and rights remaining of the King's domain, and they will not find any one willing to buy them if there is not the authority of an Act of Parliament, so that I see them almost reduced to the sole hope of taking the Dutch fleet on its return from India, which is a very uncertain matter. However, the King and his minister Arlington have plenty of courage, and do not despair of continuing the war during the coming year with the assistance which your Majesty is obliged to give. But they give me to understand that they are still in need of assistance for the declaration of the Roman Catholic religion; and as regards this, it seems to me that, if reasons of state may prevail, it would be well to defer it until your Majesty shall have finished the war with Holland: but as the Duke of York, Lord Clifford, even Lord Arlington, and consequently all who have shown the most zeal for the close alliance existing between your Majesty and the King of England, do not wish a longer delay than till next winter for the conclusion of this affair, it is not expedient, in my opinion, to make known that your Majesty desires postponement, unless it should be ascertained hereafter that the King of England desires it also. However, in order to assist them in finding the money they want, I have endeavoured to suggest the idea to Lord Arlington of proposing the sale of Tangier, by speaking to him of the great expense which the King his master is put to in maintaining the garrison and building the mole. But though there are members of the King's Council who consider this place more costly than useful to England, nevertheless, as the sale of Dunkirk was very ill received by the public, there is no minister who would willingly expose himself to the odium of a similar proposal, especially when engaged in a war and in a change of religion which already expose them to great perils. They do not hope either for speedy assistance from the Holy See, whom they think very slow to give money, whatever may be the reason. And lastly, they have no resource but the protection of your Majesty, hoping that you will not abandon the King their master, and that either you will assist him directly out of

our own money, or that you will dispose the clergy of your kingdom to make a considerable loan to the King in order to aid his conversion and that of his subjects to the Roman Catholic religion. If your Majesty is resolved to make peace this winter with Holland, which country will make strong efforts with you and the King of England for that purpose through all the Princes of Europe who have not yet taken part in the war, I think that you may restrict yourself to the exact observance of the treaty, and that there is no reason to fear that they will fail you on this side during the remainder of this year. They will even be very glad to terminate with a treaty of peace advantageous to France and to England. But if your Majesty judges it conducive to your glory and to the good of your affairs to continue next year a war so well commenced, and if the King of England wishes to declare himself a Catholic at the end of this year, it will infallibly happen, whatever good intentions he may have, that he will not have the means of executing both undertakings with his ordinary revenues and the aid which your Majesty is obliged to give him, but, on the contrary, acting to satisfy his conscience without having the means of ensuring himself against rebellion of his subjects, he will meet with such troubles as will not only render his alliance thenceforth useless to your Majesty in the war with Holland, but will even compel your generosity to give him in future larger aids of men and money, in order not to have the pain of seeing him fall into the last disgrace, than you would be obliged to furnish in the beginning of next year to be powerfully aided against the Dutch, accelerating or retarding the declaration of the Roman Catholic religion as might be judged expedient.

To resume all I have said, I think that if your Majesty judges it to be for your glory to be the restorer and protector of the Roman Catholic religion in England, it will be even for the interest of your cause that it should be soon established there, by reason of the need which the King of England will have for more than ten years of the support of your Majesty to remedy the troubles which this change will excite from time to time in his dominions; and lastly, if it is useful for the good of your affairs to continue the war against Holland next year, it is important to strengthen at present the King's mind against the arguments of the weak or ill-intentioned of his Council, who wish to persuade him that it is absolutely necessary that he should trust his Parliament and give it,

satisfaction in order to obtain the aid which he needs for remedying the bad state of affairs; and for that I see hardly any other means than to dispose the Holy See, and failing that, the French clergy, to provide a considerable fund to assist the said King in his needs after he shall have declared himself Roman Catholic, so that one may soon be able to say to him from your Majesty that, though the great expenses which you are obliged to make do not permit you to give him greater aid than what you have promised, nevertheless if that is not sufficient, with the ordinary revenues of England and the other means which he may discover, for executing his designs, your Majesty will be able to procure for him the loan of a good sum of money. In fine, it is necessary to give him these positive assurances that you will never abandon him, and that, if any disorder happens in his dominions, you will assist him with men and money.'

Your Majesty will be pleased to give your instructions on the contents of this memoir, and I shall apply myself so long as you desire me to remain here to fulfil them, and to execute your commands with the zeal and fidelity which I owe to your Majesty.

COLBERT.

LONDON, *June* 7, 1672.

APPENDIX III.

Fragment of a Memoir of the Earl of Shaftesbury by Thomas Stringer, 1672-3.[1]

SOME time after the Duke of Lauderdale, having by means of the Countess of Dysart made the same discovery of his

[1] This is all that I have found at St. Giles's of Stringer's Memoir of Shaftesbury, so frequently referred to by Martyn for the antecedent portion of Shaftesbury's Life. I have little doubt that this is a first sketch or draft of this portion of the Memoir. Here and there it appears incomplete; in some places the narrative is confused and disjointed; in one instance reference is made to a previous statement, which would belong to the period comprised in this fragment, and which is not to be found in it. Stringer's Memoir does not appear to have gone further than the end of this fragment, for Martyn makes no later references to Stringer. This Memoir, or at any rate this portion of it, was written some time after Shaftesbury's death. From an allusion to "the then Duke of Ormond," it is clear that this portion of the Memoir was written after Ormond's death, which occurred in 1688. It must have been written also after the publication of Sir William Temple's Memoirs, which was in 1691. It must have been written after the death of the Duke of Bolton, who is also referred to as "the late Duke," and who died in 1699. Stringer died in 1702; and he was probably at work on the Memoir when he died. Stringer had no knowledge of Shaftesbury's early life but from what he was told by Shaftesbury himself and others, and it is clear from Martyn's references, and also from the Locke Memoir and the MS. Vindication by Philocecus, both more or less founded on Stringer's Memoir or resting on the same authorities, that the earlier portion of the Memoir is full of errors and exaggerations. As to the portion comprised in this fragment, Stringer relates events of which he must at the time have been more or less cognizant. He was at this time Shaftesbury's secretary and in daily intercourse with him. There appears to be no doubt that Stringer was a respectable and honourable man. Of strong partiality for his patron he cannot be acquitted; and, writing twenty years after the events which he relates, he was doubtless inaccurate and confused in some of his recollections. He was evidently not versed in politics, and when he goes beyond what he himself had seen or heard he is sometimes

Majesty performing his devotions in the Queen's oratory, came in like manner to acquaint our Earl with the discouragement he was under by the manifest discovery of the King's being a papist, who was much concerned at the Duke's being affected with it, he being a man of great consideration both from his parts and resolution in the most important affairs, and therefore used all possible arguments to persuade him not to decline the interest he had hitherto by his courage and conduct so bravely asserted, and whose abilities were then absolutely necessary to preserve and support it, showing him how great a glory it would be to preserve the nation from the fatal consequences which would inevitably happen if these pernicious councillors should succeed to introduce popery amongst us, and in case they could not prevail, yet how much better it would be to fall a sacrifice in so honourable and just a cause: to comply with the matter would bring the uttermost misery and calamity upon the kingdom. But the Duke, having before concerted other measures with the Countess of Dysart[1] and popish junto, parted from our Earl

ludicrously wild in imagining motives and schemes of policy. His widow truly says of him that writing was not his talent. But making every allowance for mistakes of memory and political ignorance, for the zealous advocacy of friendship, and for the workings of Shaftesbury's own self-love (for much of Stringer's vindication is Shaftesbury's own statement of his motives), I feel persuaded that the account given in this fragment of Shaftesbury's political life from the commencement of the Dutch War to his dismissal from the Chancellorship is in general spirit truthful. The fragment begins abruptly; it is probable that Stringer had just before related a conversation of Shaftesbury with the Duke of Buckingham, who, according to Martyn, had discovered that Charles was a Roman Catholic by detecting him at his devotions in the Queen's chapel, and had endeavoured to persuade Shaftesbury to give up his opposition to Popery. (Martyn's Life, i. 402.) This story is doubtless derived by Martyn from Stringer.

[1] The Countess of Dysart was Lauderdale's second wife. She was daughter and heir of William Murray, Earl of Dysart, a favourite of Charles I., and was widow of Sir Lionel Tollemache. Lauderdale married her in 1672, immediately after his first wife's death: he had previously lived with her for some years as his mistress. Lady Dysart had been on terms of friendship with Cromwell, which caused scandalous comments, and she claimed the credit of saving Lauderdale's life after the battle of Worcester. Bishop Burnet says that Lady Dysart exercised a pernicious influence on Lauderdale's temper and public life, that she sold places to gratify her extravagance, and that he became quite a different man after he began to live with her. The Bishop's account of her is graphic: "She was a woman of great beauty, but of far greater parts. She had a wonderful quickness of apprehen-

with no other satisfaction unto him but saying, "Well, my Lord, you may do as you please." And though he did not, like the Duke of Buckingham, become a proselyte to the religion, yet he wholly after that time delivered himself up to serve it and the French interest.

July 3, 1672.—Mr. Henry Coventry[1] was sworn Secretary of State and one of the Privy Council, in the room of Sir John Trevor, that died the 28th day of May before; and notwithstanding he appeared in the Parliament in favour of those Popish designs, yet I was assured he was very faithful to the King in Council, and used his utmost endeavours there to discourage it. And, notwithstanding our Earl had nobody to stand by him besides the Prince Rupert (who was always very hearty in the cause, though not able to give much assistance to it) and Mr. Secretary Coventry, he did on all occasions expose those counsels, and explain the dangerous consequences of them as well to his Majesty as to the kingdom; and of such power and force was truth and reason,

on, and an amazing vivacity in conversation. She had studied not only divinity and history, but mathematics and philosophy. She was violent in everything she set about, a violent friend, but a much more violent enemy. She had a restless ambition, lived at a vast expense, and would have stuck at nothing by which she might compass her ends." (Own Time, i. 424.) Lauderdale was made Duke in May 1672.

[1] Henry Coventry was the third son of Lord Coventry, the Lord Keeper, by his second marriage, and was Shaftesbury's brother-in-law by Shaftesbury's first marriage. He had been Minister in Sweden from 1664 to 1666, had been associated with Lord Holles in the embassy for the conferences at Breda which ended the first Dutch war, and had now lately returned from a second embassy to Sweden. He continued to hold the office of Secretary of State till February 1679. He died in 1686. Bishop Burnet describes Henry Coventry as "a man of wit and heat, of spirit and candour," and confirms the account in the text of his staunchness in defending in public measures which he opposed in the cabinet. "He never gave bad advice," says Burnet, "but when the King followed the ill advice that others gave, he thought himself bound to excuse, if not to justify them. For this the Duke of York commended him much to me. He said, in that he was a pattern to all good subjects, since he defended all the King's councils in public, even when he had blamed them most in private with the King himself." (Own Time, i. 531.) Roger North says of his management of the House of Commons for the government, that "no man was ever better qualified for that post, for he was an ancient member, and had the nice step of the House, and withal was wonderfully witty and a man of great veracity. He had never said anything in the house which afterwards proved a lie, and had that credit there that whatever he affirmed the House believed." (Life of Lord Keeper Guilford, i. 187.)

that notwithstanding the formidableness of the junto, he had not courage to put them boldly in execution, which made them consult of other measures to be delivered from that powerful opposition, finding it too difficult for them, how strongly soever they were united to obtain their designs, whilst our Earl's abilities did so overmatch their debates, and by frightening the King disappoint their resolves. Whereupon they had concerted to advance him into the post of Lord High Treasurer of England, and did prevail with his Majesty to propose it unto him, but our Earl quickly foresaw what the junto had projected. He knew how they had encumbered the Exchequer, by stopping the payment to the bankers, and how they had drained it by that unjust war with the Dutch. He foresaw how the women (who are such excessive wasters) would be craving for money when there was none to be had, and their credit of borrowing was lost. Besides, they had so managed he knew the Parliament must sit at the time appointed,[1] and how these things might be represented, having so many potent enemies, an empty Exchequer, and great difficulties to encounter. He desired his Majesty to be excused, unless he would give him the staff upon his own terms, which was to make him absolute Minister of State, to have the full power in his hands of making peace with the Dutch, and managing the Exchequer without control, as should be most for his Majesty's and the kingdom's honour and advantage. Upon these conditions he would accept of the place, serve his Majesty faithfully, and be answerable for any mismanagement with his head. But this being wide from what was intended, the King refused it, neither would our Earl otherwise meddle.

The junto, finding our Earl would not be Treasurer but upon capitulations inconsistent with their interest, and finding it impossible quite to remove him, the King being always fond of hearing what they would say against him, did at length prevail with his Majesty to put that office upon him, and so to drive him into a high contempt, for which he might be severely fined in case he should refuse: and upon this account a white staff was provided and placed at the head of

[1] The Parliament had not sat since April 1671: it had been then prorogued till the next April, when it had been further prorogued till October 30, 1672. It did not meet at the time thus appointed; when October came, it was further prorogued till February 4, 1673, when it did meet.

the King's bed, where it stood near ten days before they could obtain his Majesty's consent; but our Earl having some intimation on Friday that the King had agreed to deliver that staff unto him the Sunday following, went out of town the Saturday before to the Lady Northumberland's[1] house at Petworth, where he stayed near a week, from thence he went unto Colonel Norton's at Southwick[2] and stayed three or four days there, from thence to Mr. Noel's[3] (afterwards the Earl of Gainsborough) at Tichfield, and from thence to his own house at St. Giles's, where he stayed five or six weeks before he returned to London, and by that time the business of his being Treasurer was at an end, and the Lords Arlington and Clifford were candidates for the place.[4] The Duke of

[1] The Countess of Northumberland was a daughter of the Earl of Southampton, and cousin of Lady Shaftesbury.

[2] Southwick near Portsmouth. Sir Daniel Norton, probably this Colonel Norton's father, had been one of Shaftesbury's guardians, and he had lived when a boy at Southwick. See Fragment of Autobiography in Appendix I. to Vol. I.

[3] Edward Noel, eldest son of the second Viscount Campden, who died in 1683; and this Mr. Noel, soon after succeeding to his father's title, was made Earl of Gainsborough. Lord Roos, the brother-in-law of Shaftesbury's son, married a sister of Mr. Noel, January 1673.

[4] A similar account of Shaftesbury's refusal of the Lord Treasurership is given in Mr. Martyn's Life (ii. 2—5). But Mr. Martyn has either garnished from his own imagination Stringer's account, or has derived information from other sources besides this biography of Stringer's. With reference to the tour of visits made by Shaftesbury in order to keep out of the King's way, Mr. Martyn says: "Mr. Stringer writes that he knew the whole of this to be true, because he accompanied Lord Shaftesbury on the journey, who then told him the reasons for it." This is not written here; but probably Martyn had seen some other account written by Stringer, which is not to be found at present among Lord Shaftesbury's papers. It is impossible that there should not be a foundation for the story so circumstantially told by Stringer. There is probably much exaggeration of details, but I conclude that there was a design to make Shaftesbury Lord Treasurer before he was appointed Lord Chancellor, and that he preferred the latter post. The motives assigned by Stringer for the offer of the Lord Treasurership, and the subsequent appointment of Shaftesbury to be Lord Chancellor, cannot certainly be implicitly believed. Mr. Wyche mentions the offer of the Lord Treasurership, and writes more moderately than Stringer: "The King and the Ministers called the new juncto, finding they had lost the Earl, and that he would no longer go with them, and would by no means come into their measures, they went to work to bring him off from making such a powerful opposition as they found he was able and about to do. In order to this they proposed to make him Lord Treasurer, and the King had the staff brought into his bedchamber on purpose to amuse him,

Ormond was for Arlington, who stood fair with the King. Lord Clifford being the bolder and more resolute man, the Dukes of York, Buckingham, and Lauderdale thought him the fittest man for their business, and from the stop of the Exchequer he aimed at it himself, intending that to be a prologue unto it; and to make way for him, they did then agree to advance our Earl from being one of the Commissioners of the Treasury to be Lord High Chancellor of England, which they thought was a post, he not having been versed in the forms and particular pleadings of the law, would have gravelled and confounded him, and so got the great seal taken from Sir Orlando Bridgman, which on the seventeenth day of November, 1672, was delivered unto our Earl at Whitehall, with the title of Lord High Chancellor of England; in which place, by his great parts, and perfect understanding and unbiassed resolution to follow it, he performed the duties and reason of the law with extraordinary modesty and justice, and very seldom made a decree which was not to the very complete satisfaction as well as the concurrence of the whole Court. He being then in this high station, we consider him in two capacities: first, as he was the chief Judge of England to determine matters of right between the subjects, and next, as he was a great Minister of State. And, acting in the first part of his office, he had his family settled in the ensuing method and order.[1] All complaints and misdemeanors among the servants were brought before the steward, who was fairly sworn to punish them by mulct to the poor, or correction at the porter's lodge, as the person's transgression required; by which means that numerous family was kept in great awe and due submission to the orders and government of the house. Our Earl also knowing that all governments do subsist more by reputation and credit than power or force, and that show and grandeur do very much contribute to the honour and support of the law, being willing to make to appear in men's minds an awful and reverent esteem of it, did, the first day of Hilary Term, according to annual usage and custom, let it appear in its greatness and splendour by his cavalcade unto Westminster Hall.

but when they first proposed it he declined it. This surprised the King, for the Treasurer's staff is a thing that is very seldom refused; but the Earl knew what they aimed at." See Chapter xii. p. 90.

[1] See the full account of the Chancellor's family, printed in Chapter xiii. of "Life."

As to the other part of his office, wherein he held as a Minister of State, the first public thing he did with relation to the Government, he having observed during the long intermission of the Parliament that several places were vacant in the House of Commons by the death of many of their members, he did take upon him as Chancellor to issue out writs unto the respective counties, cities, and boroughs, to choose new members to fill up those vacancies, that when the Parliament met it might be full, which is not only a right to the King to have all his members there to serve the ends of the Parliament, but which is very much for the advantage of the kingdom, because that is always safest from designs when the House is fullest of members. Yet, notwithstanding, at the meeting of the Parliament on the fourth day of February, 1672,[1] the Popish junto, who watched all advantages against him, for want of other matter, set on their friends in the House of Commons to attack him for sending forth those writs, pretending that no writs could issue without warrants from the Speaker, and that the Duke of York and great officers of the Court did send letters with those writs, as though they could not send such letters when the writs did issue by the Speaker's warrants to recommend persons to be chosen, or that the not sending writs by the Chancellor could hinder their sending letters and recommendations; whereas the longer it was before the writs were issued, the more time they must have to make their respective interest, and by how much the public purse did overdo the country gentlemen's, by so much more were they likely to prevail, both to corrupt the boroughs and carry their point, insomuch that their objection was a strong reason to hasten the elections, both to disappoint the Court and put an end to the expense.

And as to the other, there hath been to our remembrance such a corrupt party in the House of Commons as have hindered the Speaker from issuing his warrants to fill up the vacancies, because they would not be overbalanced with their votes. The King thereby wanting the service of several members, was like to put both his Majesty's affairs and the kingdom's safety past all retrieve, so that such a power in the House without a control may in a Court Parliament be of dangerous consequences. However, the House was pleased, how injurious soever, to damn the precedent, and order the Speaker to issue his warrants for new writs, and so put

[1] 1673, according to present reckoning.

these members to the expense and trouble of a second choice; and in such a case, if a power be lodged in the House of Commons to hinder the filling up of their vacancies, and no authority anywhere else to supply that defect, a Parliament corrupted with French or other money may be of the worst consequence to the English constitution.

We have ever thought the Speaker's warrants of no other authority than to give notice unto the Lord Chancellor of the death, removal, or discharge of such a member, without adding any power for issuing his Majesty's writs to fill up the vacancy. I have always thought the power the same in the Lord Chancellor to issue a new writ, and therefore, since he is the officer that must issue the writs, whether it be with the notice of the Speaker or without it, I do not apprehend the matter of weight enough to bear a controversy. However, my Lord Clifford having the command of the King's purse, and great sums of money having been distributed amongst the members of both Houses, there was a considerable party formed against our Earl upon this point, in hopes to carry the matter so far as at least to have removed him from the Chancellor's place, and they had agreed in their private cabals the next day to fall upon him; but the late Duke of Bolton, then Lord St. John,[1] the Lord Russell, Sir Thomas Littleton, Mr. Powle, and others of the leading members of the other side, being sensible of the junto's designs to remove him who was the only person that opposed their introducing of Popery, the night before came to our Earl to Exeter House, when our Earl, to divert them from what was intended against him, turned them upon those matters of Popery which were of great moment and consequence unto the kingdom, for which the junto had given sufficient occasion; but those gentlemen began their discourse upon the matter of his Majesty's speech made at the meeting of the parliament. The matter of the war they were so far from meddling with, they gave 1,238,750*l.* to carry it on;[2] but that of the Declaration being an indulgence to the dissenting Protestants, which the House of Commons had always showed

[1] The Duke of Bolton died in February 1699. He was eldest son of the Marquis of Winchester, who made the gallant defence of Basing House in the Civil War. The son was made Duke of Bolton in 1689, in reward of his services at the Revolution.

[2] The supply given was an assessment for eighteen months at a monthly proportion of 68,819*l.* (Commons' Journal, Feb. 15, 1673.)

an aversion to, they generally engaged against it, and it did occasion very hot and severe debates; but they took the pretence from the liberty that was therein granted to the Papists, and though Popery was now run down with full cry, yet the fanatics were chiefly aimed at by the High Churchmen. However, this put the King and junto into a great difficulty, and it was moved in the Cabinet council that parliament should be prorogued, they thinking that it would be better for the King to part with them than with his Declaration. But our Earl showing the King that the great increase of Popery and the apparent countenance that Papists had from the Court had occasioned great jealousies in the nation, and if the King should break up the parliament when they were endeavouring to serve the kingdom upon the point of Popery, they did not consider how openly and barefaced it would expose the King, and what an effect it would produce on the temper of the people. In short, they were all so much confounded that they knew not what to devise, until Clifford, thinking they had such an influence over the House of Lords that they could carry anything at their pleasure, moved that the King might bring that matter of the Declaration into that House to have them advise him to stick to it, which they apprehended might occasion a difference between the two Houses, and, under that colour, the King might prorogue the Parliament, and be securely guarded from the business of Popery.

This proposition took very well with the junto, who were all very warm for it, but our Earl saying nothing, for he was well satisfied that the Bishops and all they could influence would be as much for breaking of the Declaration as their party was in the House of Commons, the King observing him to be silent asked his opinion. He only said, "I see they are all for it, and if you please you may try what the Lords will do." Whereupon his Majesty desired to know of their Lordships, notwithstanding the Council had advised him to recall his Declaration of Indulgence, yet, considering the circumstances of affairs, and the good effects he had by it, whether they did not advise him to keep it still in being? And as our Earl thought, so it proved; for the King had no sooner ended his speech, but the Bishops and whole House flew like lightning at it, ran it quite down, that, now the King being single to support it, and both Houses against him in it, he could not then prorogue the Parliament but upon

the most evident discovery of himself unto the whole kingdom.

Our Earl, having thus fixed the sitting of the Parliament, put his friends upon passing the act 25 Car. II., cap. 2, entitled "An Act for preventing Dangers that may happen from Popish Recusants," whereby every person, as well peers as commoners, that shall bear any office civil or military, or shall receive any pay, salary, fee, or wages, by reason of any patent or grant from his Majesty, or shall have command or place of trust from or under his Majesty or the Duke of York, shall within a certain time therein limited take the oaths of Supremacy and Allegiance, and also the Sacrament according to the usage of the Church of England, and subscribe a declaration that he doth believe that there is not any transubstantiation in the Sacrament of the Lord's Supper, or in the elements of bread and wine at or after the consecration thereof.

Notwithstanding this act went very easily through the House of Commons, yet it met with strong opposition in the House of Lords from the Dukes of York, Buckingham, and Lauderdale, the Earl of Arlington,[1] and Lord Clifford, but our Earl, by invincible tone of reason, convinced the major part of the House of the necessity of it, from the powerfulness and prevalency of that party whereby the Protestant religion was most eminently in danger; and the Bishops and High-Church party have appeared so vigorous for cancelling the Declaration of Indulgence, under the pretence of Popery, could not without open shame refuse their compliance with this bill which did them no other hurt, but only removed them from places of power and trust in the government; and the same being tendered by both Houses for the royal assent, the King could not refuse it without declaring in the face of the kingdom that he was for Popery, by which means it irresistibly passed into a law, and had its effect to throw the Duke of York out of all his great commands, as Lord High Admiral, Generalissimo of all his Majesty's forces by sea and

[1] Stringer probably is mistaken in representing Arlington as an opponent of the bill, and misconceives his views at this time. Frightened by the public feeling, Arlington was now doing all in his power to restrain Charles from countenancing the Roman Catholic religion, and he from this time sided with Shaftesbury in the Cabinet. He was strongly suspected of being a secret promoter of the Test Act. See p. 136 of this volume.

land, Lord Warden of the Cinque Ports, and out of the Privy Council also. The Lord Clifford was turned out from being Lord High Treasurer,[1] and many other officers and

[1] Lord Clifford was a new convert. Evelyn, who was his warm friend, doubts whether he was really a Roman Catholic, and whether his retirement did not proceed rather from general dissatisfaction and some engagement or sentiment of honour to the Duke of York (ii. 90, July 25, 1673); but Evelyn had no knowledge of Clifford's zealous part in the secret treaty for establishing the Roman Catholic religion in England. In the Life of James II. Clifford's resignation is commended as that of one "who, though a new convert, generously preferred his conscience to his interests" (vol. i. p. 484). Some extracts from the letters to Sir Joseph Williamson, in the State Paper Office, relating to these resignations, and showing the great interest they excited, have been given in Chapter xiii. and a few more may be added here. It was for some time a matter of doubt and speculation whether Clifford would resign; to the last moment he maintained an outward conformity to the worship of the Church of England. On the 6th of June Mr. Henry Ball writes: "My Lord Treasurer has not yet declared his mind as to holding or quitting his office, though most say he will, but say he is no Papist, but scruples only the subscription of the renouncing of transubstantiation. His Lordship continues his daily prayers in his chapel after the form of the Church of England." On the 9th of June Mr. R. Yard writes: "Sunday next is the last day limited by the Act, and as yet my Lord Treasurer has not received the sacrament, so that all people's expectation must now be suddenly satisfied one way or the other." On the 16th of June Mr. H. Ball reports, that the Duke of York had the day before resigned all his offices at the end of the sitting of the Cabinet, and that Clifford was to resign on the following Wednesday. "I hear every one," he adds, "give my Lord Treasurer the repute of an exact honest man and uncorrupted." Sir Robert Southwell, one of the clerks of the Privy Council, reports on the 20th: "My Lord Clifford gave up his staff on Wednesday morning, and since forbears the Council. Till Tuesday night there was for many days before whole throngs of people of all qualities attending at all hours. The next day all was silent as a convent. His lordship will ere long retire into Devonshire, and his lady and family go away on Monday. My Lord Clifford laboured excessively in his office to lay all things in good order, and indeed satisfied all manner of persons so far as it was possible at the closure." Mr. H. Ball writes on the 20th: "It is said that my Lord Clifford is to receive 20,000*l.* presently and 4,000*l.* a year so long as Sir Thomas Osborne enjoys the place. Whether these particulars be true I know not, but it is certain my lord has a considerable gratification for this surrender." Mr. T. Rosse writes on the 21st of June: "Lord Clifford gave up his staff with great cheerfulness and constancy of countenance, whatever was his complexion within: and the act is no less the wonder than the regret of his friends; none but those of his most intimate believing it would be till it was done." Mr. W. Bridgman on the 23d gives another story of a gratification made to Clifford for his retirement: "I am told my Lord Clifford had a compensation

soldiers out of the Guards and other places, which very much weakened the party. But the Duke of Buckingham and Lord Arlington were not so straight-laced as to let their religion hinder them from going thorough-stitch to qualify themselves, rather than part with their warm places and preferments.[1]

The office of Lord High Admiral was after put into commission, and the Treasurer's place, on the 19th of June, 1673, was filled with Sir Thomas Osborne, a much worse man to all

of 10,000*l.*, of which seven thousand was paid by Mr. Seymour and three by the new Lord Treasurer." Seymour obtained the Treasurership of the Navy, vacated by Osborne. Mr. Yard wrote on the 23d: "The late Lord Treasurer is preparing for his retreat into the country. Many are of opinion it was not altogether conscience that hath moved him to it, but amongst other things his not being well with the House of Commons; but these are only guesses." Mr. H. Ball writes again on the 26th: "I dare not write the strange talk of the town upon his Royal Highness's surrender. Your Excellency will better imagine it, it being as bad against him as ever it was in his father's days in the height of his troubles. They will have it the Duke goes into the country with a gallant train of Papists which he will keep about him; but Sir Jonathan Trelawney told me to-day he heard not when he meant to go. He walks frequently in the Park, and people come to see him there and fancy him very melancholy." On the 27th, Yard and Ball write that the Duke of York had been sent for by the King, and attended a meeting of the Cabinet. The latter says: "This evening the Cabinet are meeting again; his Royal Highness was sent for to the morning's meeting and stayed all the time, which caused the report to be spread this day that he should command the army again, neither Monsieur Schomberg nor the Duke of Buckingham giving much content to the soldiers in general." Sir William Coventry says of Clifford, in writing to Mr. T. Thynne, June 25: "I cannot doubt but Lord Clifford will retire into the country, else his resignation were fruitless, the world being prepared to impute his Royal Highness's surrender to him, and everything else will be ascribed to him if he remains near the Court." (Longleat Papers.)

[1] This statement about the Duke of Buckingham, which is here made for the second time, that he became a Roman Catholic, is probably a mistake of Stringer's. I am not aware of any other authority for the statement. If at this time he became a Roman Catholic, he did not long remain so. He complied with the requirements of the Test Act, and was afterwards one of the pillars of the Protestant party in the House of Lords. All religions assuredly were to him a matter of indifference. His zealous co-operation with Clifford and the Duke of York at this period in support of the French alliance naturally exposed him to suspicions of being like them a Roman Catholic convert. The Duke was appointed Lieutenant-General of the army raised for the invasion of Holland, but he ultimately gave up this appointment from jealousy of Schomberg's being placed in the chief command.

intents and purposes than the Lord Clifford, he being a bold undertaker, a brazen liar, a violent prosecutor of malice and revenge. Besides, he was much more impudent in bribing the members of the Parliament, and set up for a supporter of High Church, in order to gain an interest with that party, and the better to influence all debates ;[1] but Arlington and the Duke of Ormond having divided both from Clifford and him about the white staff, these two parties, who were both considerable, always in both Houses ran counter and joined with the honest country party to overbalance each other's votes, and hinder one another from carrying any questions that might be pleasing to the Court, or rivet them faster in his Majesty's favour ; by which means they exposed one another's weaknesses to the King, and hindered the Court from acting the mischief which was intended against the country. Insomuch that, as the Treasurer did undertake, Ormond and Arlington did disappoint, and so on the contrary ; otherwise the nation would quickly have been overrun with Popery and slavery, which only those divisions amongst the Cabalists at Whitehall did prevent.

The advances to Popery were so open and public, that the major part of the Parliament did think it necessary to wake the Protestants against the common danger, and thereupon prepared a bill both of comprehension and indulgence, and another, in case of a popish Queen, to breed up children of the royal family in the Protestant religion; but, before they could be brought to maturity, the King put an end to the session, and prorogued the Parliament to the 27th of October, 1673.[2]

Our Earl, being Lord High Chancellor of England at the beginning of that session of Parliament, was by his office to make a speech, to enlarge upon the heads of what the King said, and then speak to both Houses, which is always directed and agreed at the Council what he should then say, and so

[1] This account of Osborne's character, though very strong in language, is confirmed by Burnet and Evelyn, and in Shaftesbury's sketch of his character, printed in Chapter xvi. There is a curious notice of the domestic misery of this great and apparently prosperous man in Dr. Lake's Diary, published in the Camden Miscellany, December 22, 1677.

[2] This is not quite accurate. Parliament was adjourned, not prorogued, to the 20th of October next, and on its then meeting was prorogued for special reasons for a week, to the 27th.

it is always made an act of state, and spoke by command of his Majesty; otherwise he would have spoken extemporary, which was much easier and more familiar to him than formal or set speeches. And, as a further confirmation of this, I well remember his Lordship had prepared a speech on this very occasion for the Council to agree in order for him to speak the same, which I had to transcribe fair for him, but at his return it was altered and changed very much from what he drew it; of which I afterwards transcribed two copies, one to be on the Lords' Journal, and the other for the House of Commons.

Sir William Temple, who, in many places of his Memoirs, is very piquish against our Earl, because, while he was Chancellor of the Exchequer and one of the Commissioners of the Treasury, he hindered the King from giving of his plate unto him after he returned from his embassy, which he thought would be of ill example, and therefore prevailed with the King not to dispose of it to Sir William, unless he resolved to do the like to all other ambassadors, who would be ready to make it a precedent for them to claim all that should be delivered them upon such an occasion, for which Sir William was very angry, and being a man of much vanity and pleasantness, he was used to take great liberty in romance, often supplying with fancy and wit what his story wanted of truth. Those that were conversant and well acquainted with him know this to be no ways differing from one part of his character.

Another charge is, that our Earl had been as deep as any man in the counsels of the Cabal, which he doth only infer from his going so far in the public applause of them, as in the before-mentioned speech, to apply *Delenda est Carthago* to our interest in the destruction of Holland. Certainly, Sir William was a better logician than to be sincere in drawing such a consequence from that premiss; but this strain, to reach our Earl upon a general accusation, was when he could not instance a case, even in one particular fact, and presume he thought it might pass indifferent well in the dark, though he must know it could not bear an examination amongst the intelligent.

Sir William could not be ignorant that those speeches were all brought to the Council, and settled there to be agreeable with the King's, and so were made acts of state. Sir William also must have been better acquainted at Court,

being so forward with the King and his chief minister, than to believe there was such an entire conjunction between Clifford, Arlington, Buckingham, Ashley, and Lauderdale in beginning the war, though he is pleased to witticize upon them, to make the initial letters of their names unluckily fall out to spell *Cabal;* but he had forgot his Royal Highness, who spoiled that witty conceit by enlarging their number: likewise his memory was short when he told us how Arlington was not well in the nation, for having such a part in breaking the course of the Triple Alliance, and making league with France for the ruin of Holland, and that Clifford's violence began the war, and his motion in the Cabal stopped the Exchequer. So that having excused our Earl from these great things, he would have done well to have let us know what other counsels he was so deeply engaged in. But if that speech had been our Earl's own sense and words, yet not being spoken in private to advise or influence the King, but in the open face of the kingdom to inform the greatest and wisest men of the nation of the state and great concern of matters in respect both to ourselves and neighbours, methinks it should not be accounted a fault, when the King told them he had left the rest to the Chancellor, to give such intimation in his Majesty's presence of the designs on foot as might enable the Parliament to take suitable and necessary measures for securing both the English and the Dutch from those dangers as did then threaten both their religion and liberties. But he was so far from applying *Delenda est Carthago* to our interest, that he boldly charged *Delenda est Carthago* to be the judgment of the Parliament; and for that reason the King called it their war, who did as guilty persons submit to it, and in that very session voted a great sum of money to continue it.

As soon as the money was obtained and the Parliament prorogued, the King and his Popish Council fell to raising of land forces, under pretence of invading Holland; but indeed they were formed into an army, and the farthest of their march was to Blackheath,[1] where they encamped, which gave

[1] This is not quite correct. The Blackheath army was embarked at Gravesend in July, in the fleet commanded by Prince Rupert, and returned from the Dutch coast to Yarmouth the next month, and was there disembarked. It remained encamped near Yarmouth for a short time. This army, raised for invasion of Holland according to the terms of the treaty with France yet unknown to the English public,

great suspicion that they were to be made use of against the Protestant religion and liberties of England, and the rather because no Englishman was permitted to command them; Monsieur Schomberg, one of the French King's generals, being chief, and Colonel Fitzgerald, an Irish Papist, Major-general, by which it was strongly believed that the French government and Irish religion was intended. The Papists were grown to that height, that our Earl, who was then Chancellor, expected every moment when they would have openly declared, and he, knowing himself in greatest danger from the interruptions he had given them, caused his family to be well armed, and kept constant watch in his house all that summer, resolving to sell his life at the dearest rate. But just as those counsels were brought to maturity, in the very crisis, there happened such a breach between the Jesuits and Jansenists, as, during that summer, obstructed their putting their designs in execution; and, to carry on that design, they depended on the Dover articles for fifty thou sand men from France. Lauderdale had given them assurance of twenty-four thousand to assist them from Scotland, and there was then computed seventy thousand of Irish and other lewd and profligate wretches, kept in a private manner and dispersed about the cities of London and Westminster, in half-pay, for that purpose; those being persons fit for any desperate exploit, which the junto apprehended would be a sufficient force to accomplish their bloody and villainous designs.

Whereupon, the former being for the immediate bringing in of the supremacy of the Pope, and instantly to make a thorough change, whereby the power and authority of the Church would have been in the hands of the Jesuits, the latter in the course of proceeding looked upon themselves to be in little less danger than the Protestants; many of them partly having suffered martyrdom, and been violently persecuted by the Jesuits, and therefore were for introducing their religion by reconciling to our High Church of England any moderate Papists, which would have been gradually and with less ill consequences effected.

Of the former party was the Duke of York, Lord Clifford,

added greatly to the general inquietude when suspicion of Charles's designs for establishing Popery had taken possession of the public mind.

Earl of Norwich (after Duke of Norfolk),[1] Lord Arundel of Wardour, Lord Stafford, and others.

Of the other were Charles Earl of Berkshire, Lord Carlingford, Lord Powis, Lord Petre, Lord Viscount Mountacute;[2] and had for their assistance the then Duke of Ormond, Lord Arlington, Lord Archbishops of Canterbury and of Dublin,[3] with many others. All these, except the four last, had frequent meetings and consultations, unto whom Sir Ellis Leighton was sent to draw up their results, which were communicated to the others. But Mr. Bennet, by means of an intimate acquaintance with Sir Ellis Leighton's female correspondent, procured copies of what they determined, and brought them to our Earl, who, by the help of several persons, advanced that difference to an open breach, and declarations against the proceedings of the junto, resolving rather to join with the Protestants and oppose them by force, than let them succeed in a design that was like to be very prejudicial unto them.

Our Earl, having by this means got the winter before him, did lay the designs of France, not only of overrunning Flanders and Holland, but of enslaving all Europe, and making himself universal Emperor of it, before the then Elector of Brandenburgh, Duke of Saxony, and other Princes of the Empire, who had that confidence both of our Earl's ability and integrity; and they thought themselves so much concerned in interfering to limit and bound his ambition, that they got the Emperor and all the Princes united in a confederacy, and came down with a powerful army like a torrent upon the French King the next spring, the Spaniards and Dutch assisting the Emperor with money for the purpose, whereby the French were so embroiled that they could not supply the fifty thousand men according to agreement; and Lauderdale's designs being exposed in Scotland,

[1] Henry Howard, younger brother of Thomas, Duke of Norfolk, who was restored to the dukedom in 1664, was created in 1669 a peer by the title of Lord Howard, and was made Earl of Norwich in 1672, receiving on this last occasion the office of Earl Marshal for himself and heirs male. He became Duke of Norfolk in 1677, on the death of his brother. He died in 1684. He gave the Arundel Marbles to the University of Oxford.

[2] Francis Browne, third Viscount Montague, who died in 1682. The title became extinct in 1797.

[3] The Archbishop of Canterbury was Gilbert Sheldon; and the Archbishop of Dublin, Michael Boyle.

to enslave both kingdoms and destroy the Protestant religion, the Parliament there was so far from assisting our Court with the twenty-four thousand men, as was expected, that they fell upon Lauderdale in such heat as he was forced to prorogue them, to prevent them calling him to an account and impeaching him for his arbitrary and illegal practices upon them.

The time of the Parliament's meeting coming on the 20th of October, the King, to put an end to those bills of comprehension and indulgence to Protestant Dissenters and educating the children of the royal family, which were very near finished at the last meeting, prorogued them until the 27th day of October. At the same time the Duke of York was in treaty to marry the Duke of Modena's daughter, who, to strengthen the interest, was to be made a daughter of France, which our Earl opposed, and so far influenced the Parliament as they made an address to the King to obstruct the match, with their reasons against it.

They also fell upon the land army, and desired his Majesty that they might be disbanded, they appearing both a great burden and terror to the people.

The Commons also voted that they could not take any further aids into consideration until the former tax of eighteen months was expired, and that the Parliament was not willing to bind up themselves, because they then most evidently saw the designs of the Court, and were willing to straiten the King to oblige him into a reasonable compliance with the Dutch.[1] This being very displeasing to the Court, on the 4th of November the King prorogued them unto the 7th of January next after, as well to give the Duke liberty to consummate his marriage, as to endeavour by

[1] The resolution framed by the Commons on the subject of a supply, October 31, 1673, was as follows: "That this House, considering the present condition of the nation, will not take into any further debate or consideration any aid or supply or charge upon the subject, before the times of payment of the eighteen months' assessment granted by a late Act of Parliament, entitled an Act for raising the sum of 1,238,750*l.*, for supply of his Majesty's extraordinary occasions, be expired, unless it shall appear that the obstinacy of the Dutch shall render it necessary; nor before this kingdom be effectually secured from the dangers of Popery and Popish councils and councillors, and the other present grievances be redressed." This resolution was framed by Sir William Coventry, but for whose intervention the refusal would probably have been unconditional.

money and private solicitations to bring the Parliament at that meeting into better humour.

During this summer our Earl had many and great struggles with the junto, and sometimes he did so expose their folly and madness, and possess the King with the dangerous consequences of their transactions, as well to him as the kingdom, that his Majesty would publicly show his dislike to the junto, and hardly speak to any of them for a fortnight together, and would often take our Earl in his arms and swear very deeply that he would stick to his advice, and never quit nor forsake him or his cause; and, at other times, because our Earl, being so much engaged in the business of the Court, could not constantly be with him, his Majesty would be quite gone off to the junto again, and forget all he had said before.

The whole affair of all that summer lying singly upon our Earl, who had but now and then an opportunity of being in private with him, and who had so many powerful enemies, of whom one or other was always at his elbow, and other profligate Papists drinking him up to such a degree of immorality as not to give him time to think, our Earl, tired with the difficulty of keeping him steady who was of so uncertain a temper, was very much pleased if he had been so successful in his endeavours as to save the nation from the intended mischief of the Blackheath army until the meeting of Parliament, which was the 20th of October, 1673.

The junto and Papists saw it was impossible for them to carry their point with the Parliament, and very difficult for them to get the King to part with them whilst our Earl was in that station, who foresaw and prevented their designs.

On the 3rd of November, his Majesty being invited to sup at the Duchess of Portsmouth's lodgings, there met him the French Ambassador, the Portugal Agent (Castel Melhor), the Treasurer, Lord Arundel of Wardour, with the Pope's Nuncio and others, where they drank his Majesty to a great height, and by an united tone persuaded him to dissolve the Parliament, turn out our Earl from being Chancellor, and set up for himself, all things concerning his support with the aids and forces from France, Scotland, and here at home, being as before. I have mentioned the French Ambassador's letters of his master's successes and victories in Flanders, by which he was in a condition to make good the articles at Dover. And they made such impression in that pleasant humour, that he

promised them, and bound it with many oaths, to dissolve the Parliament the next morning. But next morning, when he was returned a little to his sense, he considered better of the matter, and changed his resolution from dissolving only to the proroguing of them. And sending to our Earl to speak with him as he went to Westminster Hall, he took him into his closet, and after some frivolous discourse at length asked him if he had brought his robes. Our Earl being much surprised at the question, the King bid him not to be troubled, for he was steady to what he had promised him, and would never forsake him nor the Protestant interest, though for some reasons he had agreed to prorogue the Parliament that morning, and he did so send for him to their meeting, because he knew he would be against it, but he might depend upon him he would never be unfaithful to what he had promised. Our Earl then told him, "Sire, those who have prevailed upon you to prorogue the Parliament will not stop there. I fear your compliance in that will turn to your and the nation's ruïn. If you had to deal only with fools, the people would bear a good deal before they would turn upon you; but they are such busy fools as will hasten your destruction. If you would have pursued my advice, I would have engaged my life and fortune, and all I have in the world, to have made you the greatest and most famed Prince in Christendom, whose name should have been a terror to your enemies; but though I must ever hold myself obliged by you, and shall run any risk within my power to save you, yet I see you have taken such measures, and are gone into a party so contrary to the interest I have contended for, that I am not able to serve you."[1]

After he came from the King he sent a servant for his robes, and told me in the way to Westminster the nation was near its ruin, with the account before mentioned.

On the seventh of the same month, being Friday, our Earl

[1] To this speech Mr. Martyn makes the following addition, which is probably taken from another manuscript of Stringer's, and, as I conjecture, from the lost Memoir, of which the fragment here printed is probably a part in rough draft. "I am satisfied that your next step must be to send for the seals from me. But, Sir, you may fancy what you please of the Romish religion; I shall leave this as a maxim with you: if you eat sage and butter in the morning and govern well, it will make you more healthy and happy here, and bring you to heaven much sooner than Popery or the exorcisms of its priests." (Martyn's Life, ii. 74.)

attended at the Council in expectation to have pricked the sheriffs; but the King came so late in it was deferred till another day.

After the King rose, our Earl followed him, desiring to speak with his Majesty, who took him into his closet at the end of the Privy Gallery, where he talked with that briskness unto the King as made him tremble. I had an account of most that was there said, but dare not trust my memory now to repeat it, only I remember Sir Edward Seymour was very uneasy all the time, and waited at the door to be the messenger to the junto; but the Sunday following, which was on the ninth day of the month, our Earl waited upon the King, in the morning, to and from the Chapel at Whitehall, and then took an opportunity to acquaint his Majesty that he heard he intended to send for the seals, and if he would be pleased to let him know the time he would not be out of the way. The King told him at four o'clock that afternoon, at which time Mr. Secretary Coventry came with two warrants, one for a general pardon, and the other to deliver him the seals, who said at the same time, with great trouble, "My Lord, you are happy, you are out of danger, and all safe; but we shall all be ruined and undone. I desired to be excused from this office; but, being your relation and friend, they put it as an affront upon me."[1]

[1] Mr. Martyn gives some further details, which may or may not be true, but which are probably derived from a fuller narrative by Stringer. "On Sunday morning, the 9th of November, when Lord Shaftesbury went to Court, he judged from several circumstances that the seals were then to be taken from him. He presently attended the King in his closet, while the Attorney-General and others were in expectation of his returning without the purse. Being alone with the King, he said, 'Sir, I know you intend to give the seals to the Attorney-General, but I am sure your Majesty never designed to dismiss me with contempt.' The King replied, 'Cod's fish, my Lord, I will not do it with any circumstance that may look like an affront.' 'Then,' said he, 'your Majesty will permit me to carry the seals before you to chapel, and send for them afterwards from my own house?' The King, who had still a regard for him, and probably was not displeased with the humour of his design, readily complied, and told him he would send for the seals at four o'clock in the afternoon. Lord Shaftesbury entertained his Majesty in conversation, purposely to amuse the courtiers and the Attorney-General, who, he believed, was in the greatest anxiety for fear the King should be prevailed on to change his mind. The King and the Chancellor came out of the closet smiling and talking together as they went to the chapel; which was so contrary to the expectation of those who were present, that some

And if the Court lost ground, so our Earl got great honour and reputation and interest. The reasons of his removal being publicly known, made it generally resented, and was some damp on the proceedings of the Court, which the people, to vent their dissatisfaction, did very much arraign and condemn.

The next post his Majesty had intelligence of the disorders and dissatisfaction of the Scotch, who having discovered Duke Lauderdale's designs to enslave both kingdoms and subvert the Protestant religion, the Parliament fell very warmly upon him, insomuch that he was so far from assisting the King with twenty-four thousand men from thence, that he was forced to prorogue the Parliament to secure himself from being called to an account and impeached for his arbitrary and illegal practices upon them.

Also in a very short time after came news from beyond sea, how the Prince of Orange had routed the French, taken Bonn, and was so victorious that his French Majesty was too much embroiled to supply our King with the fifty thousand men his Ambassador had given such assurance of. This, with his people's discontent at home, put his Majesty into a great consternation, finding himself to be most notoriously betrayed, who under the weight of his trouble opened his mind very freely to the Earl of Oxford,[1] complaining how ill they had used him, and that they drove him on with such violence that he very much doubted the consequences; that, having but one man about him whose faithfulness he could rely upon, they

went immediately and told the Duke of York that all their measures were broken. After sermon, Lord Shaftesbury carried the seals home with him, and, at the time appointed, Mr. Secretary Coventry went with a warrant for them, and said, 'My Lord, you are out of danger and at ease, but we are in a way to be ruined. I desired to be excused from this office; but, being your relation and friend, they put it as an affront upon me.' Lord Shaftesbury delivered the seals with great cheerfulness, saying that whilst he had them he had given the King what he thought the most seasonable and just advice for his welfare and the good of the public: then, with a pleasant air, he added, 'It is only laying down my gown, and putting on my sword;' which he immediately ordered to be brought." (Martyn's Life, ii. 75.)

[1] Aubrey de Vere, twentieth and last Earl of Oxford. He had been a soldier; he was a member of the Privy Council, but he took no prominent part in politics, and does not appear to have been a man of any mark. He gained notoriety by taking one of the celebrated actresses of the day, Mrs. Davenport (Roxalana), to be his mistress. (Evelyn's Diary, January 9, 1662, October 18, 1666.)

would not let him be at rest until they had caused him to turn him out; that he found himself encompassed with so many difficulties as he should have no content until he had him again from whom he always heard his danger.

My Lord Oxford immediately sent Sir Robert Townshend[1] to our Earl to acquaint him with the discourse, expecting the King would have presently sent for him; but, about three weeks after, Monsieur Ruvigni came to our Earl, with great compliments in the name of both the Kings of England and France, and to let him know how much both of them acknowledged his great abilities and faithfulness in all public trusts, and desired he would send a servant that afternoon to the French Ambassador's lodgings for ten thousand guineas, which both Kings desired he would accept as a present from them; also, if he pleased to accept of the honour and dignity of a Duke, it should presently be conferred upon him; and in case he would return again to the Court, who was so well qualified for those great affairs of government, he should choose what preferment he pleased. If he did not approve of the seals, he should have the white staff, or what else would be most acceptable; and not only be First Minister of state here, but have what command he pleased in France.

All these and other offers then made him, perhaps as great as any subject could be capable of, were made him without any terms or conditions soever. Our Earl answered him that he did not doubt but the meaning of these kind and great offers was that he should be a friend to the French King. He said he was assured that his master, the King of England, was well satisfied what he was for, and, whenever he came to be of his mind, he knew he would trust him, and was assured he would send for him, and that he would serve him with his life; but for the French King, he had given that umbrage to England by his increasing of ships and growing so powerful at sea, that, in case he should accept of his offers, he would add but one more man to his party. He could not think any Englishman would follow him into an interest that was so apparently destructive to their religion and trade, that the name and reputation he had acquired with the people was because they were satisfied he stuck to what was their interest and advantage, and, as soon as they should find

[1] Sir Robert Townshend was a brother-in-law of Shaftesbury, being married to one of the sisters of his third and present wife, the daughter of Lord Spencer of Wormleighton.

he had quitted them, they would as quickly forsake him. He told him if his master, the French King, would quit his pretences to his ships and trade at sea, and make his affairs congruous to England's interest, he would not only have him, but the whole nation his friends. And, in the meantime, he told him it was probable he had not met with many such men, but upon any other terms all these offers he despised, and would by no means accept of any of them, desiring he would represent him full of duty to his Majesty, whom, with the King of England, he should be ready most cheerfully to serve with all integrity and cheerfulness, and be ready to do all good offices to his master, the French King, when he could at the same time do it with faithfulness to the interests of the Protestant religion, and the liberties of the English nation, that being the foundation he had always stood upon, and which he could by no measure desert.[1]

I being then present amongst others to wait on Monsieur Ruvigni to his coach, our Earl, at his return to his apartment, presently gave me an account of this discourse, and much more to the same purpose, they having been in private near two hours, only with one gentleman, who is yet living, to interpret them, because our Earl was not very exact in speaking French, though he understood it perfectly well. Besides, I have been assured that Monsieur Ruvigni communicated the same to the late worthy Lord Russell, who was his relation and friend; which, I presume, that honourable and great lady, his widow, can attest.

Our Earl not knowing how this might be represented to our King, had a desire to speak in private with him to give him an account of the whole transaction. His Majesty readily appointed eight of the clock the same night, at Mr. Chiffinch's lodgings, where the King was very importunate to have him accept of the offers, but he insisted on the same terms as he did with Monsieur Ruvigni. But his Majesty being firmly fixed on the other counsel, our Earl humbly took his leave of him, though his Majesty would often send for him to speak in private with him afterwards; yet our Earl could not prevail with him to quit that interest.

[1] This story is related in Mr. Martyn's Life exactly as it is told here (ii. 86–91); and the material part of it is confirmed by M. Colbert's despatches. See Chapter xiv. of Life.

APPENDIX IV.

Letters during the time of Shaftesbury's Lord Chancellorship, 1673.

1. *Sir William Morrice*[1] *to the Earl of Shaftesbury, written probably in the end of* 1672-3; *asking a favour for his son.*

My good Lord,

I have had the honour of your friendship, and, having never forfeited it, I hope I still hold the felicity thereof. We are now removed at a great distance, not only in place but in degree, you to a higher ascendant, I to a lower distinction; yet generous souls, like the soul of the lower world, the Sun, the higher they rise, they lend more warmth, quicken with more life, and have less umbrage. It was the saying of Themistocles, that he would assume no office wherein he would not do a friend a kindness. And for your great kindness in a small concern, I am now your humble suppliant: my son will wait on you to represent it in the perfect state thereof. And if your Lordship shall vouchsafe to oblige your servant, grown old in your favours as well as his years, it shall engage my posterity to erect a trophy in my family to your memory, and also embellish my epitaph, as well that the Chancellor was my friend as

[1] This letter is from Lord Shaftesbury's papers at St. Giles's. See Chapters xi. and xii. for other letters of Morrice to Shaftesbury. I may add that there are among the papers at St. Giles's copies of three letters written by Charles to Morrice immediately before the Restoration, proving that special confidence was reposed in him by Charles, and that he was regarded by Charles at that time as a person of great importance and influence.

the King was my master. I am the constant votary of your honour and happiness, and must be eternally engaged

Your most humble servant,

W. MORRICE.

To the Earl of Shaftesbury, Lord Chancellor.

2. *M. Cronstrom to the Earl of Shaftesbury, January* 1, 1673; *congratulating him on his being appointed Lord Chancellor.*[1]

STOCKHOLM, *January* 1, 1673.

MY LORD,

The choice of your Excellency's most noble person to the Chancellorship of England hath rejoiced this whole Court, and especially me, by reason of the great obligations which your bounty hath laid on me during my abode there. This preferment and dignity was due long since to your high merits, and I do humbly assure your Excellency that it is generally believed here, the interest of this and your nation will flourish under the wise conduct of such a renowned chief Minister of State as you are. Wherefore I do find myself in duty bound heartily to wish all prosperity to your weighty designs, and to pray with all respect imaginable for the continuance of your wonted favour to,

My Lord,

Your Excellency's most humble,

most obedient servant,

A. CRONSTROM.

3. *Three letters from the Earl of Essex,*[2] *Lord Lieutenant of Ireland, March, April, and May,* 1673, *on Irish affairs, and chiefly against a projected grant of Phœnix Park to the Duchess of Cleveland.*

DUBLIN CASTLE, *March* 8, 1673.

MY LORD,

Some time since I troubled your Lordship with a letter concerning the supplying the Chief Justice's place now void

[1] This letter has been printed in Martyn's Life.

[2] These letters from Lord Essex to Shaftesbury, in opposition to a designed prodigal grant to the Duchess of Cleveland, are derived from Lord Shaftesbury's papers at St. Giles's. They do great honour to the writer, and are a valuable confirmation of his reputation for integrity. They are honourable also to Shaftesbury, as showing that Lord Essex counted on his support on such an occasion. I applied to the present

here. My intelligence out of England tells me that my Lord Chief Justice Booth is not like to be acceptable to his Majesty for that employment: if so, there is no person here so fit as Mr. Baron Povy, whom I do earnestly recommend to your Lordship, that you would please to improve your interest to his Majesty upon this occasion. There have been endeavours used for Mr. Justice Jones, and it is not hard to guess what interest it is that would promote him, who, though he be the eldest Judge now in the King's Bench, yet he is no old lawyer, and a very new judge: besides, I have since my coming heard several things confirming my opinion that he will not be a man fit for that great employment. To show your Lordship how much some men take upon them in affairs of this nature, and how busy they are to promote men of their faction, and who may lean to their interest, I have herewith enclosed a letter which by an accident fell into my hands. The vacancy which will fall in the Exchequer, if Mr. Baron be removed, will be in my disposal, wherein I intend to place either Mr. Serjeant Hen or Sir William Davys.

My letters tell me the Duchess of Cleveland has begged the Phœnix Park to be given her at my return from this employment. I am confident, if his Majesty knew the inconvenience that every chief Governor would live with here, if he be deprived of it, he would not pass the grant. This castle is itself one of the most incommodious dwellings that ever I came in, and there is no place of pleasure belonging to it, nor any house to retire to for a little air upon occasion of sickness, but only those within the park; nor will the Governor have the command of a buck for his own table or a little grass to turn out his horse, if this park be disposed of: besides, a very great part of this ground, and indeed of the very best land, has ever for some hundred years belonged to the sword, so that I cannot but concern myself in a thing of this nature, knowing how great a lessening 'twill be to any who shall succeed me, who indeed will live here rather like a prisoner than a governor.

This is not the first time this park has been in danger to be passed away, for the Duke of Monmouth had, as I hear,

Earl of Essex to know whether Shaftesbury's replies to these letters were in his possession, and was informed that they were not, and that there were indeed no letters from Shaftesbury among the family papers at Cashiobury.

once a promise of it, but very frankly quitted it. I hope your Lordship will concern yourself in the stopping of this grant, for indeed 'tis one of the unseemliest things I have known done, and I am sure it will be very much for his Majesty's service to prevent it.

I fear I have interrupted your Lordship too long with this tedious letter, and shall therefore conclude with the assurance of my being very unfeignedly,

Your Lordship's
Most faithful and most humble servant,
ESSEX.

DUBLIN CASTLE, *April* 12, 1673.

MY LORD,

In a letter I lately received from my Lord of Arlington, in relation to the Phœnix Park, were these words: "Your Excellency cannot be ignorant of the grant his Majesty has made to my Lady Duchess of Cleveland of the Phœnix Park for ninety-nine years to her and his children after her, which he did upon a condition that it should not take effect till the expiration of the time of your Lordship's Lieutenancy, and therefore has refused hitherto to sign the bill till I had acquainted you with his intention therein, wherein I assure myself you will give him no contradiction, but if you shall think fit to insist upon any written declaration of his Majesty's mind herein, I dare charge myself with obtaining it for you, although my humble advice to you is to content yourself with what his Majesty has been verbally pleased to declare in this matter, which I am confident is abundantly sufficient in your behalf."[1] By which your Lordship may perceive that my interest is more than sufficiently preserved; but by how much the securer I am in my own concernment, by so much the more do I think myself engaged, if possible, to obstruct the passing of that grant, nay though it be even with the loss of my own convenience, for I need not mind your Lordship of a late saying of a wise man and a great minister, "That magistrates as well as merchants are supported by reputation."[2]

[1] Arlington had a strong interest in this matter, for his daughter had been betrothed the year before to Henry Fitzroy, son of the Duchess of Cleveland by the King, who was afterwards created Duke of Grafton.

[2] The "wise man and great minister" here quoted from is Shaftesbury himself. See his speech to Mr. Baron Thurland, p. lix.

I confess I know this thing to be so universally distasteful to all men here as I would not omit, and indeed in duty to the King I ought not to omit, to use all the interest I have, whilst there is any hope, to prevent the passing of that patent; and to tell your Lordship plainly my mind, I will much rather part with it presently, than be bribed to consent to so unhandsome a thing.

The Emperor Charles V. (as the history tells us) had a person of extraordinary worth for his Chancellor, who, having refused to pass an unreasonable grant, some of the courtiers took their opportunity, when the Emperor was pleasant and in good humour among some of his merry companions, to prevail with him to send a positive command to his Chancellor for passing the grant, which still the Chancellor refused. These men of pleasure (the very pest and ruin of all courts wherein such insinuate themselves) failed not to exasperate the Emperor against this minister; telling him he was affronted, and, if he suffered this, the Chancellor was Emperor, and not himself, with many other expressions of the like kind, as is usual upon such occasions; so that there was a second and third positive command, with promise of advantage, and, at last, with threats of losing his place in case he refused. But the Chancellor, continuing firm in his resolution, still utterly denied putting the seal to the grant; whereupon these gentlemen thought they had now clearly gained their point, and rid themselves of this good minister, whom they always found an obstructor of their exorbitant designs, urging the Emperor to make good his word, and send immediately for the seals: but this great prince replied, "Gentlemen, you are all mistaken, for this Chancellor is an honest and true man, and so true to me that I myself cannot bribe him to be otherwise."[1]

Of what force such an instance as this may be with your Lordship I cannot tell, nor will I ever censure any for having their reasoning differing from my own, but sure I am that this and other like examples, together with the reason of them, have fixed me in a resolution never to give up my consent to anything that in my conscience I know to be notoriously incorrect.

I ought to beg your Lordship's pardon for this long story,

[1] This paragraph, containing the story, is printed in Martyn's Life, vol. ii. p. 89.

which I have inscribed in my letter, but if you have not met with it before, I hope it may not be unpleasant to your Lordship nor altogether improper upon this occasion, and I therefore presume you will excuse this freedom in

Your Lordship's
Most faithful and most humble servant,
ESSEX.

DUBLIN CASTLE, *May* 3, 1673.

MY LORD,

Upon a letter I received from Mr. Secretary Coventry, and another from Mr. Godolphin, I presume to trouble your Lordship with the enclosed papers, which are such particulars of the Phœnix Park as the shortness of the time would permit me to return to your Lordship: though I will not aver to be perfectly true, yet I am sure they are so near truth, as there will be little variation from them, and I do promise within one post, or two at farthest, to send your Lordship all of them exact. These will give you some information of the state of that purchase. If the lady concerned will consent to a compensation of the like value of that which was intended her by the King's grant, all which I presume was no more than the new-purchased lands, I am very confident I shall easily find concealed lands enough to equal or it may be exceed the value of this; neither shall I be over nice in rating the compensation, but if it should a little exceed these lands in the Park I shall not stick at it, provided his Majesty knows (which I am sure he shall do from me) what it is that he grants. Besides this of concealed lands, there may be another way found to give to the Duchess of Cleveland satisfaction, which is, in case the King thinks fit to call a Parliament here, who I am confident will be easily prevailed with to give a small tax to redeem this park. By either of these expedients I assure myself the Duchess of Cleveland will find her account earlier than by her intended grant with the limitation of not taking its effect till the expiration of my time. I can scarcely persuade myself but this proposition will be hearkened to, and if the Duchess of Cleveland will trust the valuation which I shall set upon those new-purchased lands, I shall propose it with all truth and exactness; and if not, her Grace may be pleased to employ any of her agents here, to whom I will join some on the King's behalf, to adjust this matter. This only I desire, and humbly propose, that,

in case the park be still continued to its present use, it may for the future be irrevocably entailed upon the sword.

Now that I have had occasion to mention to your Lordship the concealed lands of this kingdom, I cannot omit the discoursing of that matter with you. We are told here that Sir William Petty and Sir Henry Ingoldsby have made a proposal of giving the King, as some say, twelve, but, as others, twenty thousand pound a year for their concealments. Though on the one hand I think these gentlemen have not behaved themselves with the respect due to my place, in making any proposals of this nature without first acquainting me with it, so I am confident they will never procure what they aim at, viz. a grant of all these concealments at a rent; for in my opinion nothing can be more illegal and oppressing to the subject than such a patent, whereby opportunity and warrant will be given to these proprietors to ravel into all men's estates whatever, who, though they had never so just and clear titles, will much rather come to a composition than endure the charges and vexations that these men will put them to. Besides, if we consider the men who undertake it, 'twill easily be foreseen with what vigour and injustice a grant of this nature will be prosecuted, for I am confident in all his Majesty's three kingdoms there lives not a more grating man than Sir William Petty. I dare say the practices of Empson and Dudley will be found nothing in comparison of the vexations which this poor country would suffer if such a grant should pass. The King may indeed give any lands that are found to be his; but if there be a maxim in law that the King cannot be deceived in his grant, then certainly no grant can be legal of concealments at a certain rate, for no man can say but the King may herein be highly deceived; therefore, this project being in itself so notoriously illegal, and apparently such as will prove in its execution so very oppressive to the subject, makes me with much confidence assure myself that it will not take effect. There are without doubt great quantities of concealed land to a very considerable value, which do of right belong to his Majesty; but then it must be considered that his Majesty is entitled to them by the Acts of Settlement and Explanation, and those statutes do invest them in his Majesty as a trustee to several particular uses therein mentioned; and if these ends are not yet answered, I offer it to your Lordship's consideration with what conscience or honour these concealed lands can be

applied to other uses. I have only said this to show your Lordship that this business will prove a good deal perplexed, and that the whole ought to be maturely and deliberately considered, before it be proceeded upon, and that some men of knowledge in this country, and who have well studied the Acts of Settlement and Explanation, be consulted with before any resolution be taken in a matter of so great moment and of such a general concern. For my own part, I am of opinion that this matter of discovery of concealed lands will never be solidly founded but by the authority of an Act of Parliament, which whenever the King shall think fit to call, I believe it will be no difficult task to procure such an Act; and this may method it in that manner and regulate the proceedings in such forms as may do the work effectually, and yet with the great ease and satisfaction of the people.

I have not had time to write to Mr. Secretary Coventry by this post; I shall beg therefore your Lordship's favour to communicate that part of this letter which relates to the Phœnix Park to him, whereby you will much oblige

Your Lordship's
Most faithful humble servant,
ESSEX.

I send your Lordship this paper enclosed, that you may keep it for your own private information, if his Majesty shall resolve to proceed upon the discovery of concealed lands. The persons most concerned will be my Lord Dillon, Lord Dorgan, Lord Clare, and generally most of the restored Irish, as also almost all my Lord Duke of Ormond's kindred and relations. This hint I thought fit to give your Lordship, and to yourself only.

As to the particulars of the Phœnix Park, the rates which the King gave for them can be no guide to know their true worth, for I found they were infinitely over-valued. As, for instance, the house and all the lands of Chappell Izod purchased from the late Chancellor, consisting of 590 acres (90 whereof are now granted to Mr. Solicitor, and the remaining 500 now in the Park,) could never be set in the best time, viz. in the year 1658, as I can prove by the rentals, for more than 330*l.* per annum, for the purchase of which the King paid 10,000*l.* My Lord of Anglesey had a great hand in making this bargain, and therefore ought not to be too much credited, if he should concern himself in valuing of it.

Lands generally in this country are sold at ten years' purchase; but those lying near the town may be valued at fourteen, which is the highest.

ESSEX.

A Particular of Lands contained in the Phœnix Park.

The whole enclosed within the park contains something less than 2,000 acres.

The lands of the Phœnix and Kilmainham contain 500 acres.

The lands belonging to Sir Richard Parsons, a minor, not yet purchased, contain 500 acres.

The other new-purchased lands enclosed within the park contain 1,050 acres: at 15*s.* an acre per annum, 787*l.* 10*s.*; at fourteen years' purchase, 11,025*l.*

4. *Circular Letter from the Lord Chancellor to Bishops, August* 4, 1673; *asking for information about sequestrated livings.*[1]

August 4, 1673.

MY LORD,

I am certainly informed, and have found by several instances, that many livings belonging to the King in several parts of England are at present under sequestration, into which clerks are put to officiate who have no presentation from his Majesty; by which means not only the livings will be in danger to be impaired by dilapidations and other waste, whilst the cure is supplied by those who, having no title, may be securely negligent of the houses and buildings, being not accountable, they nor their executors, to the next incumbent, and so certain damage will come to the Crown and Church, but also, if this course should be continued on, the King's title will in time be quite lost, or at least, this encroachment prevailing, become insignificant. To remedy this, and prevent the inconveniences that may here arise to the Crown, which the trust committed to my hands and the care I ought to take of my place and successors will not suffer me to overlook, I must earnestly entreat your Lordship to send me out of your registry and books of visitation a list of all the livings in the King's patronage that are within your diocese, with the names of each clerk at present in them, and whether he

[1] This letter is from Lord Shaftesbury's papers at St. Giles's.

officiate there as incumbent presented to it, or otherwise put in. And that for the future neither the smallness of any living may make the people be unprovided of a minister, nor concealed sequestrations injure the King's right, I desire your Lordship that, as often as you shall find it necessary to put in a curate to officiate in any living belonging to the Crown, or grant a sequestration thereof, you would give me notice of the name of the living and the clerk so put in, and the stipend you have allowed him for his pains, with the value of the yearly profits of the living so sequestered; that so such care may be taken as the particular circumstances of each case shall require, to secure the interest of the Crown, and prevent any inconveniences that may fall on the next incumbent by dilapidations, arrears of tenths, or otherwise.

I am, my Lord,
Your Lordship's most humble servant,
SHAFTESBURY.

5. *Sir Harbottle Grimstone, Master of the Rolls, to the Lord Chancellor, August* 10, 1673, *answering a complaint about the state of the Records.*[1]

GORHAMBURY, *August* 10, 1673.

MY LORD,

I have received your letter with Mr. Andrew Fountaine's petition, and, according to the ancient course and

[1] This letter is from the papers at St. Giles's. It may be fairly taken as a proof of Shaftesbury's activity as Chancellor; and the Master of the Rolls must be admitted to have defended himself well. Many new orders were made in Chancery during the period of Shaftesbury's Chancellorship, and a new collection was published, bearing the title "A Collection of the Orders heretofore used in Chancery, with such alterations and additions thereunto as the Right Honourable Anthony Earl of Shaftesbury, Lord High Chancellor of England, by and with the advice and assistance of the Honourable Sir Harbottle Grimstone, Baronet, Master of the Rolls, hath thought fit at present to ordain and publish, for reforming of several abuses in the said Court, preventing of multiplicity of suits, and unnecessary charge to the suitors, and for their more expeditious and certain course for relief." Grimstone's father, who was also Sir Harbottle, had been made a baronet in 1612. He died in 1648. Sir Harbottle, the son, had been returned to the Long Parliament for Colchester, and was one of the secluded Presbyterian members. He was elected Speaker of the Convention Parliament which restored Charles; and soon after the Restoration he was appointed Master of the Rolls. He held this office till his death, at the age of eighty-two, in 1683. Bishop Burnet,

practice, have given orders (as in such cases has always usually been done, where records are defaced, misplaced, or embezzled[1]) to new-engross authentic copies, and file the same. And I find the scope of this petition is not only to have that defect supplied, but to inform your Lordship of a great neglect and abuse in keeping of the records: which is too true, for upon a strict inquiry and diligent examination of this matter many years since, I found the records in very great disorder and much impeached by the dampness of those rooms where they are kept, and many of them rotten and defaced. But I suppose your Lordship takes notice, that the record this gentleman complains of to be wanting was the pleading and depositions taken in a case forty years since; and I suppose the negligence of my predecessors and the irregularities of those times will have no reflection upon me. And to give your Lordship an account of my behaviour since I came into the place of Master of the Rolls, and what I have done to prevent these shameful complaints (as your Lordship doth justly call them), I must humbly give your Lordship to understand, that the first thing I did after my entering into that place was to repair the chapel, and to make presses to keep the records in, where they are all since Richard the Third's time disposed of, in as exact an order as is possible to be done, and entries made in books for that purpose of every decree, inquisition, patent, or other record: whereby any who come to search there may easily find whatever they have occasion to make use of in that time. The next thing I found defective was, that the offices for the two examiners and the three pettibag clerks were so ruinous and

who was under a great obligation to him, has inserted in his History a high eulogium on Grimstone. "He was a just judge," says Burnet, "very slow, and ready to hear anything that was offered, without passion or partiality. I thought his only fault was that he was too rich; and yet he gave yearly great sums in charity, discharging many prisoners by paying their debts. He was a very pious and decent man, and spent every day at least an hour in the morning, and as much at night, in prayer and meditation. And even in winter, when he was obliged to be very early on the bench, he took care to rise so soon, that he had always the command of that time which he gave to those exercises." (Own Time, ii. 68.) Grimstone was twice married. His second wife was niece of the great Bacon, and, according to Burnet, "the last heir of that family." The present Earl of Verulam descends from a daughter of Sir Harbottle Grimstone by his first wife.

[1] Spelt *imbeazled* in the MS.

out of repair, that they were ready to fall down, and nothing could be kept dry therein: which I have new built from the ground with all conveniences for the executing of their several places, and the keeping of the records belonging to their several and respective offices. As for the bills, answers, pleadings, and depositions in the Six Clerks' Office, there being no room in the chapel to receive them, I made a warrant to the Six Clerks to transmit them over to the White Tower, who should have delivered them over by a schedule to Sir Algernon May, who is Clerk of the Records there, and 'tis their fault if they did not make an inventory thereof; and without it, Sir Algernon May might have refused the accepting thereof: and how they are kept there I cannot tell, nor am (as I conceive) so much concerned for them as those at the Chapel of the Rolls, and other offices belonging to my place; the office of Clerkship of the White Tower being a place disposed of by his Majesty's order and appointment, and therefore think myself not answerable for that officer. I might further add to my bill of charges the repairing of my house belonging to my office, and the building of nineteen rooms thereunto belonging, with stables and coach-houses, which were all rotten and tumbling down before I came into my place, which I am sure has cost me 5,000*l.*, and I have reason to believe is more than all my predecessors have done before me since Edward the Third's time, when that house and chapel was annexed to that office by Act of Parliament. As for the orders I have made and hung up in tables in the several offices belonging to my place, your Lordship may see what care I have taken to keep the offices as well as the records in due order. 'Tis possible they who come after me may do better. I am sure I have done the best I can: and more, I hope, will not be expected from,

My Lord,
Your Lordship's most humble
and devoted servant,
HARBOTTLE GRIMSTONE.

APPENDIX V.

Speeches during the Lord Chancellorship, 1672–3.[1]

1. *Speech on swearing in Lord Clifford as Lord High Treasurer, November* 28, 1672.

My Lord Treasurer,

The King's most excellent Majesty knowing your integrity, abilities, and experience in his affairs, and particularly those of his Treasury, have thought fit to make choice of you to be his Lord High Treasurer of England, and, what necessarily accompanies that place, hath by his letters patent under the great seal made you Treasurer of his Exchequer.

The Lord High Treasurer of England's Office is held by the King's delivery of the White Staff; the Treasurer of the Exchequer's hath ever been held by letters patent, and is that by which your Lordship is more immediately entitled to be a Chief Judge of this Court.

It were too nice and tedious, and peradventure too formal, to give an account of the several distinct powers of these two offices, reason and the length of time hath now so woven them together. But as they are both in your Lordship, I may justly say you are in a place of the first rank, as to dignity, power, trust, and influence of affairs—a place that requires such a man as our great master's wisdom hath found for it; from whose natural temper we may expect courage, quickness, and resolution; from whose education, wisdom, and experience, and from whose extraction, that noble and illustrious house of the Cliffords, an heroic mind, a large soul, and an unshaken fidelity to the Crown.[2]

[1] These speeches were all printed and published at the time. Those delivered in the House of Lords were entered in the Journals.

[2] Clifford was descended from the Cliffords, Earls of Cumberland, the founder of whose family came into England with William the Conqueror.

My Lord, 'tis a great honour, much beyond even the place itself, that you are chosen to it by this King, who, without flattery I may say, is as great a master in the knowledge of men and things as this or any other age hath produced. And let me say further, it is not only your honour that you are chosen by him, but it is your safety too that you have him to serve, with whom no subtile insinuations of any near him, nor the aspiring interest of a favourite, shall ever prevail against those that serve him well. Nor can his servants fear to be sacrificed to the malice, fury, or mistake of a more swelling popular greatness; a Prince under whom the unfortunate fall gently; a Prince in a word, that best of all mankind deserves that title, *Deliciæ humani generis.*

My Lord, I will not hold you long, for you have a journey to go; after you have taken your oath, and your place in this Court, you are, according to ancient custom, to visit all the officers in the upper and lower Exchequer; and therefore let me end with this wish, or rather prophecy, that you may exceed all your predecessors,—the abilities and fidelity of the renowned Lord Burleigh; the sagacity, quickness, and great despatch of his son the Lord Salisbury; and the uprightness, integrity, and wisdom of that great man that went last before you, the Earl of Southampton.

2. *Speech on swearing in Mr. Serjeant Thurland as a Baron of the Exchequer, January* 24, 1673.

Mr. Serjeant Thurland,

The King of his grace and favour hath made choice of you to be one of the Barons of the Exchequer: he designed to place you in a Court of more profit, though not of more dignity; but your own modesty hath chosen this Court, where you thought you would serve the King best: and I could not choose but mention it here to your honour; it being the greatest instance of a good man, that he had rather be found serviceable than rich. His Majesty hath had large proof of your former service; besides, he takes you upon the credit of that recommendation, that hath justly the best place with him, I mean his royal brother's. Some few things it is fit I should here mention to you, and leave with you as admonitions, or rather remembrances.

In the first place, you are to maintain the King's prerogative; and let not the King's prerogative and the law

be two things with you; for the King's prerogative is law, and the principal part of it: therefore, in maintaining that, you maintain the law. The government of England is so excellently interwoven, that every part of the prerogative hath a broad mixture of the interest of the subject; the ease and safety of the people being inseparable from the greatness and security of the Crown.

In the next place, let me advise you that you acquaint yourself with the revenue, as also the ancient records, precedents, and practices of this Court; for want of which knowledge I have seen this Court a most excellent Common Pleas, when at the same time I could not say so much for it as an Exchequer.

In the third place, let me recommend to you so to manage the King's justice and the revenue, as the King may have most profit and the subjects least vexation. Raking for old debts, the number of informations, projects upon concealments, I could not find, in the eleven years' experience I have had in this Court, ever to advantage the Crown; but such proceedings have, for the most part, delivered up the King's good subjects into the hands of the worst of men.

There is another thing I have observed in this Court which I shall mind you of; which is, when the Court hearkens too much to the clerks and officers of it, and are too apt to send out process, when the money may be raised by other ways more easy to the people. I do not say that the King's duty should be lost, or that the strictest course should not be taken, rather than that that be; for when you consider how much the officers of this Court and the under-sheriffs get by process upon small sums, more than the King's duty comes to; and upon what sort of people this falls, viz. the farmer, husbandman, and clothier in the country, that is generally the collector, constable, and tithingman; and so disturbs the industrious part of the nation, you will think it fit to make that the last way when no other will serve.

Give me leave also to mind you of one thing more, it is in your oath, that the King's needs ye shall speed before all others: that is, the business of the revenue of the Crown you are to despatch before all other, and not turn your Court into a Court of Common Pleas, and let that jostle out what you were constituted for.

In the last place, let me conclude with what concerns all my Lords the Judges as well as you: let me recommend to

you the port and way of living suitable to the dignity of your place, and what the King allows you. There is not anything that gains more reputation and respect to the Government than that doth; and let me tell you, magistrates as well as merchants are supported by their reputation.

3. *Speech as Chancellor to the two Houses, informing them of the King's pleasure for the election of a new Speaker, February* 4, 1673.[1]

My Lords, and you, the Knights, Citizens, and Burgesses of the House of Commons,

His Majesty hath commanded me to tell you that he hath many things to say to you, but he thinks not this a proper time, but will defer it till the House of Commons be completed with a new Speaker. For his Majesty hath since the last session, as a mark of his favour to his House of Commons, and that he might reward so good a servant, taken their late Speaker, Sir Edward Turner, to be Lord Chief Baron of the Exchequer, and called him by writ to be an assistant to this House. I am therefore commanded to acquaint you, gentlemen of the House of Commons, that it is the King's pleasure you repair to your House, and elect a discreet, wise, and learned man, who after he hath been by you presented, and that presentation by his Majesty admitted, shall then possess the office of your common mouth and Speaker. And the King is pleased to be here to-morrow in the afternoon, to receive the presentment of him accordingly.

4. *Two Speeches to Sir Job Charlton on his being presented for the King's approval as Speaker of the House of Commons, February* 5, 1673.[2]

Mr. Serjeant Charlton,

The King hath very attentively heard your discreet and handsome discourse, whereby you endeavour to excuse and

[1] Sir Edward Turnour, who had been Speaker since the beginning of this Parliament, had been made Lord Chief Baron of the Exchequer in May 1671, shortly after its last sitting. The House of Commons immediately proceeded to the election of a Speaker, and elected Sir Job Charlton, Knight and Serjeant-at-law. He was presented to the King the next day.

[2] The first of these speeches is in answer to one in which Sir Job Charlton, according to a custom since abandoned, went through the

disable yourself for the place of Speaker: in answer whereof, his Majesty hath commanded me to say to you, that he doth in no sort admit of the same; for his Majesty hath had long experience of your abilities, good affection, integrity, and resolution in several employments of great trust and weight: he knows you have been long a parliament-man, and therefore every way fitted and qualified for the employment. Besides, he cannot disapprove the election of this House of Commons, especially where they have expressed so much duty in choosing one worthy and acceptable to him. And therefore the King doth allow of the election, and admits you for Speaker.

MR. SPEAKER,

The King's Majesty hath heard and well weighed your short and eloquent oration, and, in the first place, much approves that you have with so much advantage introduced a shorter way of speaking upon this occasion. His Majesty doth well accept of all those dutiful and affectionate expressions in which you have delivered your submission to his royal pleasure; and looks upon it as a good omen to his affairs, and as an evidence that the House of Commons have still the same heart, that have chosen such a mouth. The conjuncture of time, and the King and kingdom's affairs, require such a House of Commons, such a Speaker; for, with reverence to the Holy Scripture, upon this occasion the King may say, "He that is not with me is against me;" for he that doth not now put his hand and heart to support the King in the common cause of this kingdom, can hardly ever hope for such another opportunity, or find a time to make satisfaction for the omission of this.

Next, I am commanded by his Majesty to answer your four petitions; whereof the first being, the freedom of you and your servants in your persons and estates, without arrest or other disturbance, the King is graciously pleased to grant it as full as to any of your predecessors.

insincere form of asking the King to excuse him from the office; and the second is a reply to a second speech of the new Speaker, submitting himself to the King's refusal of his excuses, and making the usual petitions for the Commons. Charlton held the office not quite a fortnight. On the 15th of February he was prevented by illness from attending the House. The House adjourned to the 18th, on which day, Charlton having desired leave to resign, Mr. Seymour was elected to succeed him.

The second for liberty and freedom of speech, the third for access to his royal person, and the fourth, that your proceedings may receive a favourable construction, are all freely and fully granted by his Majesty.

5. *Speech to the two Houses of Parliament as Chancellor, by the King's command, after the King's Speech at the opening of the Session, February* 5, 1673.[1]

My Lords, and you, the Knights, Citizens, and Burgesses of the House of Commons,

The King hath spoken so fully, so excellently well, and so like himself, that you are not to expect much from me. There is not a word in his speech that hath not its full weight, and, I dare with assurance say, will have its effect upon you. His Majesty had called you sooner, and his affairs required it, but that he was resolved to give you all the ease and vacancy to your own private concerns, and the people as much respite from payments and taxes, as the necessity of his business or their preservation would permit. And yet (which I cannot but here mention to you), by the crafty insinuations of some ill-affected persons, there have been spread strange and desperate rumours, which your meeting together this day hath sufficiently proved both malicious and false.[2]

His Majesty hath told you that he is now engaged in an important, very expensive, and indeed a war absolutely necessary and unavoidable. He hath referred you to his declaration, where you will find the personal indignities, by pictures and medals and other public affronts, his Majesty hath received from the States; their breach of treaties both in the Surinam and East India business; and at last they

[1] This was an official speech, delivered by Shaftesbury as Lord Chancellor, after the King's speech, which ended in customary phrase with "I leave the rest to the Chancellor." I print the whole of the King's speech in foot-notes, giving each paragraph at the end of each corresponding division of Shaftesbury's speech, which is a running comment on the King's, and amplification of the King's treatment of each topic.

[2] The King's speech had begun thus: "My Lords and Gentlemen, I am glad to see you here this day. I would have called you sooner together, but that I was wishing to ease you and the country till there were an absolute necessity." The Parliament had not sat since April 1671. The war had been begun in March 1672, nearly a year before.

came to that height of insolence as to deny the honour and right of the flag, though an undoubted jewel of this crown, never to be parted with, and by them particularly owned in the late treaty of Breda, and never contested in any age. And whilst the King first long expected, and then solemnly demanded satisfaction, they disputed his title to it in all the Courts in Christendom, and made great offers to the French King, if he would stand by them against us. But the Most Christian King too well remembered what they did at Munster, contrary to so many treaties and solemn engagements, and how dangerous a neighbour they were to all crowned heads.

The King and his Ministers had here a hard time, and lay every day under new obloquies. Sometimes they were represented as selling all to France for money to make this war; Portsmouth, Plymouth, and Hull were to be given into the French hands for caution. The next day news came that France and Holland were agreed. Then the obloquy was turned from treachery to folly. The Ministers were now fools that some days before were villains. And indeed the coffee-houses were not to be blamed for their last apprehensions, since, if that conjunction had taken effect, then England had been in a far worse case than now it is, and the war had been turned upon us. But both Kings, knowing their interest, resolved to join against them who were the common enemies to all monarchies, and I may say especially to ours, their only competitor for trade and power at sea, and who only stand in their way to an universal empire as great as Rome. This the States understood so well, and had swallowed so deep, that, under all their present distress and danger, they are so intoxicated with that vast ambition, that they slight a treaty and refuse a cessation.

All this you and the whole nation saw before the last war; but it could not then be so well timed, or our alliances so well made. But you judged aright, that at any rate *delenda est Carthago;* that Government was to be brought down; and therefore the King may well say to you, 'tis your war. He took his measures from you, and they were just and right ones; and he expects a suitable assistance to so necessary and expensive an action, which he hath hitherto maintained at his own charge, and was unwilling either to trouble you, or burthen the country, until it came to an inevitable necessity. And his Majesty commands me to tell you, that unless

it be a certain sum, and speedily raised, it can never answer the occasion.[1]

My Lords and Gentlemen,

Reputation is the great support of war or peace. This war had never begun, nor had the States ever slighted the King, or ever refused him satisfaction, neither had this war continued to this day, or subsisted now, but that the States were deceived in their measures, and apprehended his Majesty in that great want of money that he must sit down under any affronts, and was not able to begin or carry on a war. Nay, at this day, the States support themselves amongst their people by this only falsehood, "That they are assured of the temper of England and of the Parliament, and that you will not supply the King in this war; and that, if they can hold out till your meeting, they will have new life, and may take new measures." There are lately taken two of their principal agents, with their credentials and instructions to this purpose, who are now in the Tower, and shall be proceeded against according to the law of nations. But the King is sufficiently assured of his people, knows you better, and can never doubt his Parliament. This had not been mentioned, but to show you of what importance the frankness and seasonableness of this supply is, as well as the fulness of it. Let me say, the King hath brought the States to that condition, that your hearty conjunction at this time in supplying his Majesty will make them never more formidable to Kings, or dangerous to England. And if, after this, you suffer them to get up, let this be remembered: the States of Holland are England's eternal enemy, both by interest and inclination.

In the next place to the supply for the carrying on of the war, his Majesty recommends to you the taking care of his debts. What you gave last session did not near answer your

[1] The King's speech: "Since you were last here, I have been forced to a most important, necessary, and expensive war, and I make no doubt but you will give me suitable and effectual assistance to go through with it. I refer you to my declaration for the causes, and indeed the necessity of this war, and shall now only tell you that I might have digested the indignities to my own person rather than have brought it to this extremity, if the interest as well as the honour of the whole kingdom had not been at stake; and if I had omitted this conjuncture, perhaps I had not again ever met with the like advantage."

own expectation. Besides, another considerable aid you designed his Majesty was unfortunately lost in the birth; so that the King was forced, for the carrying on of his affairs, much against his will, to put a stop to the payments out of the Exchequer. He saw the pressure upon himself and growing inconveniences to his people, by great interest; and the difference, through all his business, between ready money and orders. This gave the King the necessity of that proceeding, to make use of his own revenue, which hath been of so great effect in this war. But, though he hath put a stop to the trade and gain of the bankers, yet he would be unwilling to ruin them, and oppress so many families as are concerned in those debts. Besides, it were too disproportionable a burthen upon many of his good subjects. But neither the bankers nor they have reason to complain, if you now take them into your care, and they have paid them what was due to them when the stop was made, with six per cent. interest from that time. The King is very much concerned both in honour and interest to see this done: and yet he desires you not to mistime it, but that it may have only the second place; and that you will first settle what you intend about the supply.[1]

His Majesty hath so fully vindicated his declaration from that calumny concerning the Papists, that no reasonable scruple can be made by any good man. He hath sufficiently justified it by the time it was published in, and the effects he hath had from it; and might have done it more from the agreeableness of it to his own natural disposition, which no good Englishman can wish other than it is. He loves not blood nor rigorous severities, but, where mild or gentle ways may be used by a wise prince, he is certain to choose them. The Church of England and all good Protestants have reason to rejoice in such a head and such a defender. His Majesty doth declare his care and concerns for the Church, and will maintain them in all their rights and privileges, equal if not beyond any of his predecessors. He was born and bred up in it; it was that his father died for. We all know how great temptations and offers he resisted abroad, when he was in his lowest condition, and he thinks it the honour of his

[1] The King's speech: "You will find that the last supply you gave me did not answer expectation for the ends you gave it, the payment of my debts; therefore I must in the next place recommend them again to your especial care."

reign that he hath been the restorer of the Church. It is that he will ever maintain, and hopes to leave to posterity in greater lustre and upon surer grounds, than our ancestors ever saw it. But his Majesty is not convinced that violent ways are the interest of religion or of the Church.[1]

There is one thing more that I am commanded to speak to you of, which is the jealousy that hath been foolishly spread abroad of the forces the King hath raised in this war, wherein the King hath opened himself freely to you, and confessed the fault on the other hand; for, if this last summer had not proved a miracle of storms and tempests, such as secured their East India fleet, and protected their sea-coasts from a descent, nothing but the true reason, want of money, could have justified the defect in the number of our forces. It is that his Majesty is providing for against the next spring, having given out orders for the raising of seven or eight regiments more of foot, under the command of persons of the greatest fortunes and quality. And I am earnestly to recommend to you that in your supplies

[1] The King's speech: "Some few days before I declared the war, I put forth my Declaration for Indulgence to Dissenters, and have hitherto found a good effect of it by securing peace at home when I had war abroad. There is one part in it that hath been subject to misconstructions, which is that concerning the Papists, as if more liberty were granted to them than to the other Recusants, when it is plain there is less; for the others have public places allowed them, and I never intended that they should have any, but only have the freedom of their religion in their own houses, without any concourse of others. And I could not grant them less than this, when I had extended so much more grace to others, most of them having been loyal, and in the service of me and of the King my father; and in the whole course of this indulgence I do not intend that it shall any way prejudice the Church, but I will support its rights, and it in its full power. Having said this, I shall take it very ill to receive contradiction in what I have done. And I will deal plainly with you, I am resolved to stick to my Declaration." Charles, however, found that he could not "stick to" it. Colbert wrote on the 10th, that the King and his cabinet had been deliberating for four hours the day before on the affairs of religion, which were to be discussed that day in the Commons, and that Arlington had told him that the Declaration would be much attacked, and that the sitting would not pass without much tribulation for the King and his ministers, but that the King would maintain the Declaration and be in the end satisfied with the Parliament. Before Colbert closed that despatch, he learnt, and added in a postscript, that the Commons had resolved by a majority of fifty-two that penal laws cannot be suspended but by Act of Parliament. (Archives of French Foreign Office.) See pp. 128 and 134.

you will take into your consideration this necessary addition of charge.[1]

And after his Majesty's conclusion of his speech, let me conclude, nay let us all conclude, with blessing God and the King: let us bless God that He hath given us such a King, to be the repairer of our breaches both in Church and State, and the restorer of our paths to dwell in; that, in the midst of war and misery, which rages in our neighbour countries, our garners are full, and there is no complaining in our streets, and a man can hardly know there is a war. Let us bless God that hath given this King signally the hearts of his people, and most particularly of this Parliament, who, in their affection and loyalty to their Prince, have exceeded all their predecessors; a Parliament with whom the King hath many years lived with all the caresses of a happy marriage. Has the King had a concern, you have wedded it. Has his Majesty wanted supplies, you have readily, cheerfully, and fully provided for them. You have relied on the wisdom and conduct of his Majesty in all his affairs, so that you have never attempted to exceed your bounds, or to impose upon him: whilst the King, on the other hand, hath made your counsels the foundations of all his proceedings, and hath been so tender of you, that he hath upon his own revenue and credit endeavoured to support even foreign wars, that he might be least uneasy to you or burthensome to his people. And let me say, that though this marriage be according to Moses' law, where the husband can give a bill of divorce, put her away, and take another, yet I can assure you it is as impossible for the King to part with this Parliament, as it is for you to depart from that loyalty, affection, and dutiful behaviour you have hitherto showed towards him.

Let us bless the King for taking away all our fears, and leaving no room for jealousies; for those assurances and promises he hath made us. Let us bless God and the King, that our religion is safe, that the Church of England is the care of our Prince, that Parliaments are safe, that our pro-

[1] The King's speech: "There is one jealousy more that is maliciously spread abroad, and yet so weak and frivolous that I once thought it not of moment enough to mention, but it may have gotten some ground with some well-minded people; and that is, that the forces that I have raised in this war were designed to control law and property. I wish I had more forces the last summer: the want of them then convinces me I must raise more against this next spring; and I do not doubt but you will consider the charge of them in your supplies."

perties and liberties are safe. What more hath a good Englishman to ask, but that this King may long reign, and that this triple alliance of King, Parliament, and people may never be dissolved?[1]

6. *Two Speeches to Mr. Edward Seymour on his being presented for the King's approval as Speaker of the House of Commons, February* 18, 1673.[2]

Mr. Seymour,

You have spoken so very well in this short excuse of yourself from the place of a Speaker, that, if his Majesty had

[1] The King's speech: "I will conclude with this assurance to you that I will preserve the true reformed Protestant religion, and the Church as it is now established in this kingdom, and that no man's property or liberty shall ever be invaded. I leave the rest to the Chancellor."

[2] Six years later, on the meeting of the next Parliament, Seymour being re-elected Speaker, was rejected by the King; and, knowing that it was the King's intention, on Danby's advice, to refuse approval, Seymour then omitted the form of asking his Majesty to excuse him. His speech then was short and stout. "May it please your Majesty, the knights, citizens, and burgesses, in parliament assembled, in obedience to your Majesty's command, have made choice of a Speaker, and have unanimously chosen me, and now I am come hither for your Majesty's approbation, which, if your Majesty please to grant, I shall do them and you the best service I can." It did not, however, avail Seymour that he had omitted to excuse himself: the King rejected him, the Commons remonstrated, the King prorogued them, and on their again meeting another was elected. Seymour, approved as Speaker on this occasion, ceased to hold the office for a short time in 1678. Ill-health obliged him to resign, April 11, 1678, and Sir Robert Sawyer was elected; but, before a month had elapsed, Sawyer resigned for the same reason of ill-health, and Seymour, being then well again, was re-elected. Seymour, afterwards Sir Edward Seymour, succeeding in 1688 to a baronetcy, was born in 1633. He had been in 1667 the mover of Clarendon's impeachment in the House of Commons, and had carried up the articles of impeachment to the House of Lords. He was now, when elected Speaker, one of the Commissioners of the Navy; and in the year following, when Osborne succeeded Clifford as Lord Treasurer, Seymour succeeded Osborne in the lucrative post of Treasurer of the Navy. Seymour was also a member of the Privy Council, and there was then a question as to the propriety of the Speaker's being of the Privy Council. Sir W. Coventry writes to Mr. Thynne, April 12, 1673, "Mr. Speaker being of the Council is, I suppose, *primæ impressionis* and cannot consist with a late practice, if not a rule, of the Speaker's being a stranger at Whitehall while the Parliament sits, which the late Speaker excused upon his necessary attendance on his Royal Highness." (Longleat Papers.) The late Speaker

not so well known you before, this had sufficiently proved your ability for that place. I have therefore in command from his Majesty to say he accepts not of your excuse, but is extremely satisfied with the choice of the House of Commons; and therefore the King doth allow of their election, and admits you for Speaker.

MR. SPEAKER,

His Majesty is much pleased with your cheerful submission to his royal pleasure, and thinks himself repaired for the loss of so good a servant as the late Speaker, Sir Job Charlton, whose sickness hath disabled him from that place; for all that his Majesty expected from so worthy and able a

referred to is Sir Edward Turnour, who was Attorney-General to the Duke of York; and indeed he was also the King's Solicitor-General for a year before he ceased to sit as Speaker. In the next session of Parliament a violent attack was made on Seymour as Speaker: his being Treasurer of the Navy and Privy Councillor was adduced against his fitness to remain in the chair, and his morals were also strongly assailed. (See the debate in the Parliamentary History, iv. 589.) It will have been seen from a passage in Stringer's fragment of a Memoir, that Seymour was an enemy of Shaftesbury; Stringer describes him as waiting impatiently when Shaftesbury's dismissal from the Chancellorship was expected, to carry the news of his dismissal to others. It is very difficult to unravel the complicated web of the personal and political intrigues of this time. Seymour was Shaftesbury's enemy and Buckingham's friend; he was not, however, a friend of Osborne's, and Colbert mentions that Seymour, whom Buckingham thought his most devoted friend, was opposed to the French alliance, of which Buckingham was a zealous supporter. (November 27, 1673. Archives of French Foreign Office.) Colbert mentions also in his despatches, November 6 and 13, that the attack on Seymour was instigated by Arlington, Shaftesbury, and Ormond; that the King was indignant, and that he had spoken of Shaftesbury in reference to this incident as a rogue and rascal (*fourbe et fripon*). A strong statement is made as to Seymour's dissolute habits in a letter from Lord Conway to Sir George Rawdon, printed in the Rawdon papers, p. 255. Bishop Burnet justly describes him as a bad, bold, haughty man. (Own Time, ii. 70.) Burnet also mentions that he was the first Speaker of the House of Commons who was not a lawyer, and says of him that "he was the most assuming Speaker that ever sat in the chair." His political career was long and busy, but not brilliant or of pleasant reputation. He died in February 1708. Lord Macaulay's vivid description of him at the opening of the first Parliament of James II. must be familiar to all. (Hist. of England, i. 512.) He was the head of the elder branch of the great Seymour family; the Duke of Somerset of that time being descended from a younger son of the Duke Protector. Seymour's grandson, on failure of the younger line, succeeded to the dukedom.

man he is certain to find in you. His Majesty graciously accepts that loyal and just character you have given of his reign, and hath commanded me to assure you and his Parliament, that he not only ever hath, but ever shall, inviolably maintain the properties, rights, and liberties of his people, and every individual person of them, and hath and will take care that justice have its free course.

His Majesty hath further commanded me to answer your four petitions; whereof the first, being for the freedom of you and your servants in your persons and estates without arrest or other disturbance, the second, for liberty and freedom of speech, the third, for access to his royal person, and the fourth, that your proceedings may receive a favourable construction, are all freely and fully granted by his Majesty.

7. *Speech on swearing in Sir Thomas Osborne as Lord High Treasurer, June* 26, 1673.

My Lord Treasurer,

The King, of his grace and favour, has made choice of you to be Lord High Treasurer of England, as also Treasurer of the Exchequer, which are two distinct offices. The first you are already possessed of by the King's delivery of the white staff, and have taken the oath for that office before me in another place. The other his Majesty has conferred on you by his letters patent under the great seal, which I am to deliver to your Lordship, after you have been sworn into that office in this Court, of which by this patent you are made a chief Judge.

Kings are as Gods, and bestow honour, riches, and power, where they please; but in this they are as men, that they can only choose, not make a person adequate to their employment; for if their choice be merely favour, not fitness, their omnipotency is quickly seen through. Our great master hath therefore chosen you, as he has had experience of you these many years, as a member of this House of Commons, which hath been so fruitful a nursery of our English ministers and statesmen. Besides, your Lordship was some time since joined with another very able and willing person in the Treasurership of the Navy, and after that managed it alone; so that before this you have been trusted with three parts out of five of the revenue of the Crown.

My Lord, you are in a place the very best that any English subject is capable of; therefore you are in another position, not only to the King our master, but to us all, than you were ever before. He and us have all reason to look upon you as a man at ease, and that has nothing to wish but the prosperity of his master and the nation, that you may quietly and long enjoy so great a place under so good a master. There is no more to be asked of you in this condition, but that you know your own interests, and that will secure to you the King's and the nation's. I repeat them thus together, because none but mountebanks in state matters can think of them asunder. And, let me say to your Lordship, that however happy you have been in arriving to this high station, yet *parta tueri non minor est virtus.* Many great men have proved unfortunate in not observing that the address and means to attain great things are oftentimes very different from those that are necessary to maintain and establish a sure and long possession of them.

My Lord, it will be no civility to you to hold you longer; the visit you are to make to the several offices of the Exchequer will take you up the rest of this morning. I shall only add my good wishes, that your Lordship may long enjoy the honour of this great employment, and his Majesty the satisfaction of his choice.

8. *Speech to the two Houses of Parliament as Chancellor, by the King's command, after the King's speech at the opening of the Session, October* 29, 1673.[1]

My Lords, and you, the Knights, Citizens, and Burgesses of the House of Commons,

His Majesty had reason to expect that he should have met you with the olive branch of peace: his naval preparations, greater than in any former years, together with the land forces he had ready for any occasion, gave him assurance to obtain it before this time; and the rather, because his aims were not conquest, unless by obstinacy enforced; but his condescensions at the Treaty have been so great, that the

[1] Parliament had met on the 20th of October, the day to which on the previous 29th of March it had been adjourned, and had then been prorogued till the 27th. This prorogation was in order to facilitate a fresh supply, and get rid of some difficulties.

very mediators have declared they were not reasonably to be refused. He could not be King of Great Britain without securing the dominion and property of his own seas: the first, by an article clear, and not illusory, of the flag; the other, by an article that preserved the right of the fishing, but gave the Dutch permission as tenants, under a small rent, to enjoy and continue that gainful trade upon his coasts. The King was obliged, for the security of a lasting peace, as also by the laws of gratitude and relation, to see the House of Orange settled, and the Lovesteine,[1] that Carthaginian party, brought down; neither in this did the King insist beyond what was moderate and agreeable to their Government, and what the Prince's ancestors enjoyed amongst them. Besides these, it was necessary to the trade of England that there should be a fair adjustment of commerce in the East Indies, where the King's demands were reasonable, and according to the law of nations; and their practice of late years hath been exorbitant and oppressive, suitable only to their power and interest, and destructive, if continued, to our East India Company. These were all of any moment the King insisted on, as judging aright that that peace that was reasonable, just, and fair to both parties, would be sacred and durable, and that by this means he should depress the interest and reputation of that Lovesteine party amongst them, who sucked in with their milk an inveterate hatred to England, and transmit it to their posterity as a distinguishing character, wherein they place their loyalty to their country. In return to this candid and fair proceeding on the King's part, his Majesty assures you he hath received nothing but the most scornful and contemptuous treatment imaginable: papers delivered in to the mediators, owned by them to be stuffed with so unhandsome language that they were ashamed and refused to show them; never agreeing to any article about the flag that was clear or plain; refusing any article of the fishery, but such a one as might sell them the right

[1] The Lovestein party was the party against a Stadtholder, now broken and low after the murder of the two De Witts; and this part of the speech is a studied attempt to conciliate the Prince of Orange and the dominant party. There is also an indirect attempt to explain away the obnoxious *Delenda est Carthago* of the previous speech by fixing the epithet *Carthaginian* on the Lovestein party. Burnet probably intends to impute such an intention when he says that "this expression made the Chancellor as ridiculous as the other had made him odious."

of inheritance for an inconsiderable sum of money, though it be a royalty so inherent in the crown of England, that I may say (with his Majesty's pardon for the expression) he cannot sell it. The article of the Prince of Orange, and the adjustment of the East India trade, had neither of them any better success; and, to make all of a piece, they have this last week sent a trumpeter, with an address to his Majesty, being a deduction of their several offers of peace, as they call them, and their desires for it now; but it is, both in the penning and the timing of it, plainly an appeal to his Majesty's people against himself. And the King hath commanded me to tell you, he is resolved to join issue with them, and print both their address and his answer, that his people and the world may see how notorious falsehoods and slights they endeavour to put upon him. In a word, in England, and in all other places, and to all other persons of the world, they declare they offer all things to obtain a peace from the King of England; but to himself, his ministers, the mediators, or his plenipotentiaries, it may with confidence and truth be affirmed, that to this day, nay, even in this last address, they have offered nothing. They desire the King's subjects would believe they beg for peace, whilst their true request is, only to be permitted to be once masters of the seas, which they hope, if they can subsist at land, length of time may give them, and if once got is never to be lost, nor can it be bought by any State or Emperor at too great a rate; and what security their agreement with us in religion will afford, when they shall have the power, former instances may give demonstration of. Joint interests have often secured the peace of differing religions; but agreeing professions have hardly an example of preserving peace of different interests.[1]

This being the true and natural state of things, his Majesty doth with great assurance throw himself into the arms of you his Parliament, for a supply suitable to the great affairs he is engaged in. When you consider we are an island, it is

[1] I again print the King's speech, paragraph by paragraph, in notes on the Chancellor's. It began: "My Lords and Gentlemen, I thought this day to have welcomed you with an honourable peace; my preparations for the war and condescensions at the Treaty gave me great reason to believe so; but the Dutch have disappointed me in that expectation, and have treated my ambassadors at Cologne with the contempt of conquerors, and not as might be expected from men in their condition. They have other thoughts than peace."

not riches nor greatness we contend for,—yet those must attend the success,—but it is our very beings are in question, we fight *pro aris et focis* in this war. We are no longer freemen, being islanders and neighbours, if they master us at sea. There is not so lawful or commendable a jealousy in the world, as an Englishman's of the growing greatness of any Prince at sea. If you permit the sea, our British wife, to be ravished, an eternal mark of infamy will stick upon us: therefore I am commanded earnestly to recommend to you not only the proportion, but the time of the supply, for, unless you think of it early, it will not be serviceable to the chief end, of setting out a fleet the next spring.[1]

As for the next part of the King's speech, I can add nothing to what his Majesty hath said; for, as to religion and property, his heart is with your heart, perfectly with your heart. He hath not yet learned to deny you anything; and he believes your wisdom and moderation is such, he never shall. He asks of you to be at peace in him, as he is in you, and he shall never deceive you.[2]

There is one word more I am commanded to say, concerning that debt that is owing to the Goldsmiths: the King holds himself in honour and conscience obliged to see them satisfied. Besides, you all know how many widows, orphans, and particular persons the public calamity hath overtaken, and how hard it is that so disproportionable a burthen should fall upon them, even to their utter ruin. The whole case is so well and generally known, that I need say no more: your great wisdom hath not done it at the first, peradventure, that the trade of bankers might be suppressed, which end is now attained; so that now your great goodness may restore to

[1] The King's speech: "This obligeth me to move you again for a supply, the safety and honour of the nation necessarily requiring it; it must be one proportionable to the occasion; and I must tell you besides that, if I have it not speedily, the mischief will be irreparable in my preparations for the next spring. The great experience I have had of you, gentlemen of the House of Commons, will not suffer me to believe that the artifices of our enemies can possibly divert you from giving me this supply, or that you can fail of adjusting the proportion of it."

[2] The King's speech: "I hope I need not use many words to persuade you that I am steady in maintaining all the professions and promises I have made you concerning religion and property; and I shall be very ready to give you fresh instances of my zeal for preserving the established religion and laws, as often as any occasion shall require."

those poor people, and the many innocent ones that are concerned with them, some life and assurance of payment in a competent time.[1]

My Lords and Gentlemen,

I have no more in command;[2] and therefore shall conclude, with my own hearty prayers, that this session may equal, nay exceed, the honour of the last; that it may perfect what the last begun for the safety of the King and kingdom; that it may be ever famous for having established upon a durable foundation our religion, laws, and properties; that we may not be tossed with boisterous winds, nor overtaken by a sudden dead calm, but that a fair gale may carry you, in a steady, even, and resolved way, into the ports of wisdom and security.

[1] The King's speech: "In the last place, I am highly concerned to commend to your consideration and care the debt I owe the Goldsmiths, in which very many of my other good subjects are involved. I heartily recommend their condition to you, and desire your assistance for their relief. There is more that I would have you informed of, which I leave to the Chancellor."

[2] Mr. Martyn has very foolishly represented this conclusion of Shaftesbury's speech as an act of independence, and as advice given on his own account to the Parliament to pursue a policy of opposition to the King; and he represents the Popish junto as furious with Shaftesbury for thus exceeding the King's commands. It is clear that this is a mere rhetorical peroration, having no special significance.

APPENDIX VI.

Speeches after the Lord Chancellorship.

1. *Reasons against the Bill for the Test, being heads of a speech or speeches in the House of Lords, May* 1675.[1]

1. It is a great step to the overthrowing of the Act of Oblivion and distinguishing of parties. That it is in other Acts doth not justify the matter: for those were but steps to the same end. And I should think rather that after fifteen years those should be repealed, than that it should now be enjoined to be taken by all the officers of the nation and even by the members of both Houses of Parliament.

2. 'Tis against the nature of an oath, which ought to be simple and plain; but this is of a dark, intricate, and perplexed meaning, and therefore is a snare to the consciences of good men.

3. It is needless, for either it maintains and means no more than the oath of allegiance, or where it attempts more or goes to explain 'tis pernicious and dangerous.

4. 'Tis directly establishing a standing army by Act of Parliament, for if whatever be by the King's Commission be by the King's authority, then a standing army is law; for the King's authority is nothing but the law in other words. Besides it alters the whole law of England in one of the fundamental parts of it, for the King's Commission was never thought to protect or justify any man in any proceeding, when it was against his authority, which is the law.

[1] These notes of reasons against Lord Danby's famous Test Bill of 1675 are here printed for the first time from the papers at St. Giles's. They probably made material for several speeches in the long Committee of the whole House on the Bill. Much of these notes is paraphrased in the "Letter of a Person of Quality."

5. 'Tis against the property of the subject, of which I give this instance:

If any man at suit with one in greater favour at Court (as may happen hereafter) shall recover house and lands, and shall by order of law be put into possession by the sheriffs, and afterwards a warrant is obtained by the interest of the favourite to command some soldiers of the standing army to take the possession, and deliver it back, I conceive, by the law, the man in possession may justify the defending himself by arms, and killing those who shall violently endeavour to enter his house, and yet in this case the party whose house is invaded takes up arms by the King's authority against those who are commissioned by him.

For another instance put the case that any King hereafter shall contrary to the Petition of Right demand loan money by Privy Seal or otherwise of private persons, and shall send soldiers to break up the houses of those that refuse to pay, and shall distrain their money, goods, and plate. It is lawful in such a case, as the law now stands, for those men to defend their houses against such invasion, and yet it is of the same nature with the former and against the words of this oath.

This may seem a rude instance towards the Crown, but it cannot be explained without speaking thus plain; and it cannot be denied me but that, however happy we are now, Kings being but men, these suppositions are not extravagant.

6. 'Tis against the safety of the King's Crown, which I shall explain by two instances.

The one is known to you all, and may very well be supposed to be hereafter, I mean that famous instance of Henry the Sixth, who, being a soft and weak Prince, when taken prisoner (by his cousin Edward the Fourth that pretended to the Crown) was carried up and down in the army, gave what orders and commissions they pleased, whilst all those that were loyal to him as one man adhered to his wife and son, and fought a pitched battle against him and retook him; and yet to this day no man has ever blamed them, or thought but if they had done other they had betrayed their Prince and been disloyal to him.

The other instance; put case, a future King of England should be of the same temper with Henry the Sixth, and should be taken prisoner by any accident, by Spaniards, Dutch, or French, which should then be an overpowering

power, and should both with the person and commission of the King invade England; were it not suitable with our loyalties to join with the son of that Prince for the defence of his father's Crown and dignity, even against the person and commission of the King?

And here you must take my instance as I put it. A King as Henry the Sixth was acting purely out of real fear and weakness, so that every man's conscience bore him witness that in fighting against him he did what was most loyal to his Prince and safest for his person and interest.

In both these cases as I cannot but justify but by the strict letter of the law they stand in need of the King's pardon, so I do not think it safe either for the person of the King or his Crown and dignity that it should be expressly sworn against.

And if you will forswear all distinctions which ill men have made ill use of either in rebellion or heresy, you must extend the oath to divinity and politics.

Thus much for the oath in general, and the first part of it, but for the latter part of it 'tis infinitely more extravagant.

For

1. 'Tis against the King's Crown and dignity, that his subjects should be sworn to the government of the Church equal as to himself. The Kings of England have always been sworn to maintain the Church, and their people have sworn allegiance to them. But I cannot think it safe for the King to permit by Act of Parliament, much less to enjoin, his great officers and both Houses of Parliament to swear to the Church as to himself.

And 'twere a question not unfit to be asked, what is the government of the Church we are to swear to?

Whether it derives no power, nor authority, nor priesthood, nor function but from the King as head of the Church? For if they derive a power separate and independent from the King, it's not safe for the King to permit his subjects to be sworn to them.

If any shall say that the priesthood and power thereof and the authority belonging thereto are derived immediately from Christ, but the licence of exercising that authority and power in the King's dominions and over his subjects is derived from the civil authority, I beseech your Lordships to consider how dangerous a thing it is that by Act of Parliament and your oaths they should be secured in the exercise

of an authority in the King's country and over his subjects, which being received from Christ cannot be altered.

How must we again be priest-ridden, when the Church shall, by Act of Parliament and your oaths, be thus separate and set above the civil power? This does, indeed, set the mitre above the Crown.

2. 'Tis against the very nature, being, and ends of Parliament, and so subverts the foundation of our government; for what is the business of Parliaments but to make alterations, either by adding or taking away some part of the government in Church and State?

If it be answered me that 'tis allowed to alter parts but not the whole, or to make alterations about exercise of the power, and not to take away the power itself, either in part or in whole, pardon me if I say this is nonsense; for if I may alter any part, I desire to know, and to be told how much, or where I must stop; and for the distinction of power and the manner of exercising it, there can be no such distinction here, for power and the manner of exercise are so interwoven that whoever can prevail in the manner can absolutely enervate the power.

'Tis against the King's supremacy, and the greatest attempt that has been made against it since the Reformation; for I beg (before we are made to take this oath) that we may understand whether the King in Parliament may not alter, diminish, or take away any Bishopric, and whether, after this oath in Parliament, I may safely consent to it: whether the King may take any part of a diocess or whole diocess, and put them under Deans or any other persons. Because if it be not lawful for the King and Parliament to do it, I scruple the maintaining the government as it is.

The Dean of Hereford and the Dean of Salisbury have very large tracts of land under their jurisdictions, as full as any Bishops have their dioceses under them: and several parsons of parishes have episcopal jurisdiction. Nay, I fear some laymen, too, have it, and yet I hope are in a state of salvation; if not, I should be loth to swear to such a government of the Church that is so imperfectly settled.

My Lords, I would not be mistaken in this discourse, for I think episcopacy the best government for the Church, and most suitable to England.

But I must say with the great Lord of Southampton, upon occasion of this oath in the Parliament at Oxford, "I will

not be sworn never to alter the Church government as now constituted, though as yet I am persuaded I am the furthest imaginable from consenting to it."

There is nothing that is made necessary to our religion by Divine precept, but such circumstance may come in human affairs as may render the contrary eligible by the best of men.

And if our Church government be looked upon to be so Divine as not to be altered, and therefore fit for us all to swear allegiance to it, I am sure that opinion doth not only externally invade the King's supremacy, but differs from the opinion of the Parliament both in Edward the Sixth and Queen Elizabeth's time, and it must follow there is no salvation but when there is episcopacy.

Which, if the Church themselves did believe, they would not suffer so many parties as I have before mentioned to your Lordships to rest in so ill a state in England. Nay, the Church of Rome itself, that is the great mother of that opinion, gives herself the lie when she has so vast tracts of ground and such great numbers of men exempt from episcopal jurisdiction.

But, my Lords, I had almost forgot one thing, which is, how scandalous this oath will appear to all foreign Protestants, when this part of being sworn to the government of the Church doth not secure our doctrine at all. For Episcopacy would remain, though the Popish religion were introduced, and the King's supremacy is jostled aside by this oath to make way for an ecclesiastical supremacy.

2. *Account of a Speech on Protestant Doctrine in Debates on the Test Bill, May* 1675. [*Extracted from "A Letter from a Person of Quality to his Friend in the Country."*][1]

The Earl of Shaftesbury very well urged that it is a far different thing to believe, or be fully persuaded of the truth of, the doctrine of our Church, and to swear never to endeavour to alter; which last must be utterly unlawful, unless you place an infallibility either in the Church or yourself; you being otherwise obliged to alter, whenever a clearer or better light comes to you. And he desired leave to ask, where are the boundaries, or where shall we find how much is meant by the Protestant religion?

[1] This combat of words with the Lord Keeper occurred in the Committee of the whole House on the Test Bill. Mr. Martyn has incorporated this account in his Life of Shaftesbury.

The Lord Keeper,[1] thinking he had now got an advantage, desires, with his usual eloquence, that it "might not be told in Gath, nor published in the streets of Askelon," that a Lord of so great parts and eminence, and professing himself for the Church of England, should not know what is meant by the Protestant religion! This was seconded with great pleasantness by divers of the Lords the Bishops. But the Bishop of Winchester and some others of them were pleased to condescend to instruct that Lord, that the Protestant religion was comprehended in thirty-nine articles, the liturgy, the catechism, the homilies, and the canons.

To this the Earl of Shaftesbury replied, that he begged so much charity of them to believe that he knew the Protestant religion so well, and was so confirmed in it, that he hoped he should burn for the witness of it, if Providence should call him to it: but he might, perhaps, think some things not necessary that they accounted essential; nay, he might think some things not true, or agreeable to the Scripture, that they might call doctrines of the Church. Besides, when he was to swear "never to endeavour to alter," it was certainly necessary to know "how far the just extent of this oath was." But since they had told him that the Protestant religion was in those five tracts, he had still to ask, whether they meant that those whole tracts were the Protestant religion, or only that the Protestant religion was contained in all those, but that every part of these was not the Protestant religion? If they meant the former of these, then he was extremely in the dark to find the doctrine of predestination, in the seventeenth and eighteenth articles, to be owned by so few great doctors of the Church; and to find the nineteenth article to define the Church directly as the Independents do. Besides, the twentieth article, stating "the authority of the Church," is very dark, and either contradicts itself, or says nothing, or what is contrary to the known laws of the land. Besides, several other things in the thirty-nine articles have been preached and writ against by men of great favour, power, and preferment in the Church.

He humbly conceived the liturgy was not so sacred, being

[1] Finch, who succeeded Shaftesbury with the rank of Lord Keeper, November 9, 1673; he was made a peer with the title of Baron Finch, January 10, 1674, and on December 19 of this year, 1675, he was raised to the dignity of Lord Chancellor. He was created Earl of Nottingham May 12, 1681.

made by men the other day, and thought to be more differing from the dissenting Protestants, and less easy to be complied with, upon the advantage of a pretence well known unto us all, of making alterations as might the better unite us; instead whereof, there is scarce one alteration but widens the breach. And no ordination allowed by it here (as it now stands last reformed in the Act of Uniformity) but what is episcopal: insomuch that a popish priest is capable, when converted, of any Church preferment without re-ordination; but no Protestant minister not episcopally ordained but is required to be re-ordained; as much as in us lies, unchurching all the foreign Protestants that have not bishops; though the contrary was both allowed and practised from the beginning of the Reformation till the time of that act, and several bishops made of such as were never ordained priests by bishops. Moreover, the uncharitableness of it was so much against the interest of the Crown and Church of England (casting off the dependency of the whole Protestant party abroad), that it would have been bought by the Pope and the French king at a vast sum of money; and it is difficult to conceive so great an advantage fell to them merely by chance, and without their help. So that he thought to endeavour to alter and restore the liturgy to what it was in Queen Elizabeth's days, might consist with his being a very good Protestant.

As to the catechism, he really thought it might be mended; and durst declare to them, it was not well that there was not a better made.

For the homilies, he thought there might be a better book made; and the third homily of "repairing and keeping clean of churches," might be omitted.

What was yet stranger than all this, the canons of our Church are directly the old popish canons, which are still in force, and no other; which will appear, if you turn to the statute of 25 Hen. VIII., cap. 19, confirmed and received by 1 Elizabeth, where all those canons were established until an alteration should be made by the King in pursuance of that act: which thing was attempted by Edward VI. but not perfected, and let alone ever since; for what reasons, the Lords the Bishops could best tell; and it was very hard to be obliged by oath "not to endeavour to alter either the English Common Prayer Book or the Canon of the Mass."

But if they meant the latter,—that the Protestant religion

is contained in all those, but that every part of those is not the Protestant religion,—then he apprehended it might be in the bishops' power to declare *ex post facto* what is the Protestant religion or not, or else they must leave it to every man to judge for himself what parts of those books are or are not; and then their oath had been much better let alone.

3. *Speech on a motion for appointing a Day for the hearing of Dr. Shirley's Appeal from the Court of Chancery, October* 20, 1675.[1]

My Lords,

Our all is at stake, and therefore you must give me leave to speak freely before we part with it. My Lord Bishop of Salisbury[2] is of opinion "that we should rather appoint a day to consider what to do upon the petition, than to appoint a day of hearing;" and my Lord Keeper[3] (for I may name them at a Committee of the whole House) tells us in very eloquent and studied language, "that he will propose us a way far less liable to exception, and much less offensive and injurious to our own privileges, than that of appointing a day of hearing." I beseech your Lordships, did not you, after all these fine words, expect some admirable proposal? But it ended in this, "that your Lordships should appoint a day,—nay, a very long day,—to consider what you would do in it." And my Lord hath undertaken to convince you that this is your only course, by several undeniable reasons; the first of which is, "that it is against your judicature to have this cause, which is not proper before us, nor ought to be relieved by us."

[1] The sudden prorogation of Parliament on June 9, 1675, on account of the hot dispute between the two Houses about Dr. Shirley's appeal to the House of Lords, had prevented the passing of Lord Danby's Test Bill, which was then in progress in the House of Commons, having been passed by the Lords. When Parliament met again on October 13, the King, in his opening speech, deprecated a renewal of the dispute of the preceding session, and begged that at any rate the privilege question, if it arose, should be deferred till they had "brought such public bills to perfection as may conduce to the good and safety of the kingdom." Dr. Shirley lost no time in presenting a petition for fixing a day to hear his cause. His petition was presented October 19: the next day the question came on for discussion. Shaftesbury moved with this speech that a day be appointed: the debate was continued during four days, and on November 4 it was resolved that the hearing of Dr. Shirley's cause should be on November 28.

[2] Dr. Seth Ward. [3] Lord Keeper Finch.

To this, my Lords, give me leave to answer, that I did not expect from a man professing the law, that after an answer by order of the Court was put in, and a day had been appointed for hearing (which by some accident was set aside), and the plaintiff moved for a second day to be assigned, that ever, without hearing counsel on both sides, the Court did enter into the merits of the cause; and if your Lordships should do it here, in a case attended with the circumstances this is, it would not only be an apparent injustice, but a plain subterfuge to avoid a point you durst not maintain.

But my Lord's second reason speaks the matter more clearly,—because it is a doubtful case whether the Commons have not privilege; and, therefore, my Lord would have you appoint a further and a long day to consider of it; which in plain English is, that your Lordships should confess, upon your books, that you conceive it, on second thoughts, a doubtful case: for so your appointing a day to consider will do, and that for no other reason but because my Lord Keeper thinks it so; which, I hope, will not be a reason to prevail with your Lordships, since we cannot yet, by experience, tell that his Lordship is capable of thinking your Lordships in the right in any matter against the judgment of the House of Commons; it is so hard a thing, even for the ablest of men, to change ill habits.

But my Lord's third reason is the most admirable of all, which he styles unanswerable, viz., that your Lordships are all convinced in your consciences that this, if prosecuted, "will cause a breach." I beseech your Lordships, consider whether this argument, thus applied, would not overthrow the law of nature, and all the laws of right and property in the world; for as it is an argument, and a very good one, that you should not stand or insist on claims where you have not a clear right, or where the question is not of consequence and moment, in a matter that may produce a dangerous or pernicious breach between relations, persons, or bodies politic, joined in interest and high concerns together; so, on the other hand, if the obstinacy of the party in the wrong shall be made an unanswerable argument for the other party to recede and give up his just rights, how long shall the people keep their liberties, or the princes or governors of the world their prerogatives? How long shall the husband maintain his dominion, or any man his property, from his friend's or his neighbour's obstinacy? But, my Lords, when I hear my

Lord Keeper open so eloquently "the fatal consequences of a breach," I cannot forbear falling into some admiration how it comes to pass that, if the consequences be so fatal, the King's Ministers in the House of Commons, of which there are several that are of the Cabinet, and have daily resort to his Majesty, and have the direction and trust of his affairs; I say, that none of those should press these consequences there, or give the least stop to the career of that House in this business; but that all the votes concerning this affair—nay, even that very vote, "that no appeal from any court of equity is cognizable by the House of Lords"—should pass *nemine contradicente*, and yet all the great Ministers with us here, the Bishops, and other Lords of great dependence on the Court, contend this point as if it were *pro aris et focis*.

I hear his Majesty, in Scotland, hath been pleased to declare against appeals in Parliament. I cannot much blame the Court, if they think that (the Lord Keeper and the Judges being of the King's naming, and in his power to change) the justice of the nation is safe enough: and I, my Lords, may think so too, during the King's time; though, I hear Scotland, not without reason, complains already. Yet who can see how future princes may use this power, and how Judges may be made—not men of ability or integrity, but men of relation and dependence, and who will do what they are commanded; and then all men's causes come to be judged, and estates to be disposed of, as great men at Court shall please?

My Lords, the constitution of our Government hath provided better for us; and I can never believe so wise a body as the House of Commons will prove that foolish woman who plucks down her house with her own hands.

My Lords, I must presume, in the next place, to say something to what was offered by my Lord Bishop of Salisbury, a man of great learning and abilities, and always versed in a stronger and closer way of reasoning than the business of that noble Lord I answered before did accustom him to do: and that reverend prelate hath stated the matter very fair upon two heads.

The first, whether the hearing of causes and appeals, and especially in this point, where the members have privilege, be so material to us that it ought not to give way to reasons of state, or greater affairs that press us at this time.

The second was, if this business be of that moment, yet,

whether the appointing a day to consider of this petition would prove of that consequence and prejudice to your cause.

My Lords, to these give me leave, in the first place, to say, that this matter is no less than your whole judicature; and your judicature is the life and soul of the dignity of the peerage of England. You will quickly grow burthensome if you grow useless. You have now the greatest and most useful end of Parliament principally in you; which is, not to make new laws, but to redress grievances, and to maintain the old landmarks. The House of Commons' business is to complain; your Lordships' to redress, not only the complaints from them who are the eyes of the nation, but all other particular persons who address themselves to you.

A land may groan under a multitude of laws, and I believe ours does; and when laws grow so multiplied, they prove oftener snares than directions and security to the people. I look on it as the ignorance and weakness of the latter age, if not worse—the effect of the designs of ill men—that it is grown a general opinion, that where there is not a particular direction in some act of Parliament, the law is defective; as if the common law had not provided much better, shorter, and plainer for the peace and quiet of the nation than intricate, long, perplexed statutes do, which have made work for the lawyers, given power to the judges, lessened your Lordships' power, and, in a good measure, unhinged the security of the people.

My Lord Bishop tells us, that "your whole judicature is not in question, but only the privilege of the House of Commons, of their members not appearing at your bar." My Lords, were it no more, yet, for justice and the people's sake, you ought not to part with it. How far a privilege of the House of Commons, their servants, and those they own, doth extend, Westminster Hall may with grief tell your Lordships. And the same privilege, of their members being not sued, must be allowed by your Lordships as well. And what a failure of justice this would prove, whilst they are lords for life, and you for inheritance, let the world judge.

For my part, I am willing to come to a conference whenever the dispute shall begin again, and dare undertake to your Lordships that they have neither precedent, reason, nor any justifiable pretence to show against us; and, therefore, my Lords, if you part with this undoubted right merely for asking, where will the asking stop? And, my Lords, we are sure it

doth not stop here; for they have already, *nemine contradicente*, voted against your Lordships' power of appeals, from any court of equity; so that you may plainly see where this caution and reason of state means to stop—not one jot short of laying your whole judicature aside.

For the same reason, of passing the King's money, of not interrupting good laws, or whatever else, you must of necessity avoid all breach upon what score soever. Thus, your Lordships plainly see, the breach will be as well made upon your judicature in general, as upon this point; so that, when your Lordships have appointed a day, a very long day, to consider whether Dr. Shirley's cause be not too hot to handle, and when you have done the same for Sir Nicholas Stanton, whose petition, I hear, is coming in, your Lordships must proceed to a vote to lay all private business aside for six weeks: for that phrase of private business hath obtained, this last age, upon that which is your most public duty and business, namely, the administration of justice. And I can tell your Lordships, besides the reason that leads to it, that I have some intelligence of the designing such a vote; for, on the second day of your sitting, at the rising of the Lords' house, there came a gentleman into the lobby, belonging to a very great person, and asked, in very great haste, "Are the Lords up? Have they passed the vote?" and being asked, "What vote?" he answered, "The vote for no private business for six weeks."

My Lords, if this be your business, see where you are if you are to postpone our judicature, for fear of offending the House of Commons, for six weeks, that they, in the interim, may pass the money, and other acceptable bills, which his Majesty thinks of importance. Are so many wise men in the House of Commons to be laid asleep, and to pass all these acceptable things, and, when they have done, to let us to be let loose upon them? Will they not remember this, next time, when there is want of money? Or, may they not rather be assured by those Ministers that are amongst them, and go on so unanimously with them, that the King is on their side in this controversy? And, when public business is over, our time shall be too short to make a breach, or vindicate ourselves in the matter; and then, I beg your Lordships, where are you? If, after you have asserted, but the last sessions, your right of judicature so highly even in this point, and after the House of Commons had gone so high

against you, on the other hand, as to post up their declaration and remonstrances on Westminster Hall doors, the very next session after, you postpone the very same causes, and not only those, but all judicatures whatsoever, I beseech your Lordships, will not this prove a full precedent and confession against ourselves?

It is a maxim, and a rational one, amongst the lawyers, that one precedent, where the case has been contested, is worth a thousand where there has not been a contest.

My Lords, in saying this, I humbly suppose I have given a sufficient answer to my Lord Bishop's second question, "Whether the appointing a day to consider what you will do with this petition be of that consequence to your right?" for it is a plain confession that it is a doubtful case, and that infinitely stronger than if it were a new thing to you, never before heard of; whereas it is the very same case, and every thing desired in that case, that you formerly ordered and so strongly asserted; so that, after due time, and all the deliberation imaginable, you declare yourselves to become doubtful; and put yourselves out of your own hands, into that power which you have no reason to believe is on your side the question.

My Lords, I have all the duty imaginable to his Majesty; and shall, with all submission, give way to anything he shall think of importance to his affairs. But, in this point, it is to alter the constitution of the Government, if you are asked to lay this aside; and there is no reason of state can be an argument to throw yourselves out of that interest you have in the constitution of the Government. It is not only your concern that you maintain yourselves in it; but it is the concern of the poorest man in England that you keep your station. It is your Lordships' concern, and that so highly, that, I will be bound to say, the King can give none of you a requital or a recompense for it. What are empty titles? What is present power, or riches, and a great estate, wherein I have no firm fixed property? It is the constitution of the Government, and maintaining it, that secures your Lordships, and every man else, in what he hath. The poorest Lord, if the birthright of his peerage be maintained, has a fair prospect before him for himself or his posterity. But the greatest title, with the greatest power and riches, is but a mean creature; and maintains those in absolute monarchies no otherwise than by servile and low flatteries, and upon uncertain terms.

My Lords, it is not only your interest, but the interest of the nation, that you maintain your rights; for, let the House of Commons and gentry of England think what they please, there is no prince that ever governed without nobility or an army. If you will not have one, you must have the other, or the monarchy cannot long support or keep itself from tumbling into a democratical republic. Your Lordships and the people have the same cause and the same enemies. My Lords, would you be in favour with the King? it is a very ill way to it, to put yourselves out of a future capacity to be considerable in his service. I do not find in story or in modern experience, but that it is better, and a man is much more regarded, who is still in a capacity and opportunity to serve, than he that hath wholly deprived himself of all for his prince's service; and, therefore, I declare, that I will serve my prince as a peer, but will not destroy the peerage to serve him.

My Lords, I have heard of twenty foolish models, expedients to secure the justice of the nation and yet to take this right from your Lordships;—as, the King by his Commission appointing Commoners to hear appeals; or, that the twelve Judges should be the persons; or, that persons should be appointed by Act of Parliament: which are all not only to take away your Lordships' just right, that ought not to be altered, any more than any other part of the government, but are in themselves, when well weighed, ridiculous.

I must deal freely with your Lordships; these things could never have risen in people's minds without some kind of provocation that has given the first rise to it. Pray, my Lords, forgive me if, on this occasion, I put you in mind of committee dinners, and the scandal of it; as, also, those droves of ladies that attend all causes. It was come to that pass, that men hired, or borrowed of their friends, handsome sisters or handsome daughters to deliver their petitions: but yet, for all this, I must say that your judgments have been sacred, unless in one or two causes; and those we owe most to that bench from whence we now apprehend most danger.

There is one thing I had almost forgot to speak to, which is the conjuncture of time, the hinge on which the reason of state turns; and to that, my Lords, give me leave to say, if this be not a time of leisure for you to vindicate your privileges, you must never expect one. I could almost say that the harmony, good agreement, and concord, which are to be prayed for at other times, may be fatal to us now. We owe

the peace of these last two years, and the disengagements from the French interest, to the two Houses differing from the sense and opinion of Whitehall. So, at this time, the thing in the world this nation hath most reason to apprehend is a general peace, which cannot now happen without very advantageous terms to the French, and disadvantageous to the House of Austria.

We are the King's great counsellors; and, if so, have a right to differ, and give contrary counsels to those few that are nearest about him. I fear they would advance a general peace. I am sure, I would advise against it, and hinder it, at this time, by all the ways imaginable. I heartily wish nothing from you may add weight and reputation to those counsels that would assist the French. No money for ships, nor preparations you can make, nor personal assurances our prince can have, can secure us from the French if they are at leisure.

The French King is grown the most potent of us all at sea: he has built twenty-four ships this last year, and has thirty more than we; besides the advantage, that our ships are all out of order, and his so exquisitely provided for that every ship has its particular storehouse. It is incredible the money he hath, and what he has laid out in making of harbours. He makes even nature itself give way to the vastness of his expense: and, after all this, shall a prince so wise, so intent upon his affairs, be thought to make all these preparations to sail over land, and fall on the back of Hungary, and batter the walls of Kaminietz? or is it possible he should oversee his interest in seizing of Ireland, a thing so feasible to him, if he be master of the seas, as he certainly now is; and which, when attained, gives him all the southern Mediterranean, East and West India trade, and renders him, both by situation and excellent harbours, perpetual master of the seas without dispute.

My Lords, to conclude this point, I fear the Court of England is greatly mistaken in it: and I do not wish it the reputation of the concurrence of the kingdom; and this out of the most sincere loyalty to his Majesty and love to my nation.

My Lords, I have but one thing more to trouble you with, and that, perhaps, is a consideration of the greatest weight and concern both to your Lordships and the whole nation. I have often seen in this House, that the arguments with

strongest reason, and most convincing to the lay Lords in general, have not had the same effect upon the Bishops' Bench; but that they have unanimously gone against us in matters that many of us have thought essential and undoubted rights; and I consider, that it is not possible that men of great learning, piety, and reason, as their Lordships are, should not have the same care of doing right, and the same conviction what is right, upon clear reason offered, that your other Lordships have. And, therefore, my Lords, I must necessarily think we differ in principles; and then it is very easy to apprehend, what is the clearest sense to men of my principle, may not at all persuade or affect the conscience of the best man of a different one. My principle is, "that the King is king by law, and by the same law that the poor man enjoys his cottage;" and so it becomes the concern of every man in England that has but his liberty, to maintain and defend, to his utmost, the King in all his rights and prerogatives. My principle is also, "that the Lords' House, and the judicature and rights belonging to it, are an essential part of the Government," and established by the same law. The King, governing and administering justice by his House of Lords, and advising with both his Houses of Parliament in all important matters, is the Government I own, I was born under, and am obliged to. If ever there should happen in future ages (which God forbid!) a King governing by an army without his Parliament, it is a Government I own not, am not obliged to, nor was born under.

According to this principle, every honest man that holds it must endeavour equally to preserve the frame of the Government in all the parts of it; and cannot satisfy his conscience to give up the Lords' House for the service of the Crown, or to take away the just rights and privileges of the House of Commons to please the Lords.

But there is another principle got into the world, my Lords, that hath not been long there, for Archbishop Laud was the first author that I remember of it; and I cannot find that the Jesuits, or, indeed, the popish clergy, have ever owned it, but only some of the episcopal clergy of our British isles; and it is withal, as it is new, so the most dangerous, destructive doctrine to our Government and law that ever was: it is the first of the canons published by the Convocation 1640, that "monarchy is of Divine right." This doctrine was then preached up and maintained by Sibthorp, Manwaring, and others; and,

of late years, by a book published by Dr. Sanderson, Bishop of Lincoln, under the name of Archbishop Usher: and how it is spread amongst our dignified clergy is very easily known.

We all agree, that "the King and his Government is to be obeyed for conscience sake;" and that the Divine precepts require, not only here, but in all parts of the world, "obedience to lawful governors;" but that "this family are our Kings, and this particular frame of government is our lawful constitution and obliges us," is owing wholly to the particular laws of our country.

This Laudean doctrine was the root that produced the Bill of Test last session; and some very perplexed oaths, that are of the same nature with that, and imposed by several acts, this Parliament.

In a word, if this doctrine be true, our Magna Charta is of no use; our laws are but rules among ourselves during the King's pleasure. Monarchy, if of Divine right, cannot be bounded or limited by human laws; nay, what is more, cannot bind itself; and all our claims of right by the law or constitution of the Government, all the jurisdiction and privilege of this House, all the rights and privileges of the House of Commons, all the properties and liberties of the people, are to give way, not only to the interest, but the will and pleasure of the Crown; and the best and worthiest of men, holding this principle, must vote to deliver up all we have, not only when reason of state and the separate interest of the Crown require it, but when the will and pleasure of the King is known to have it so; for that must be to a man of that principle the only rule and measure of right and justice. Therefore, my Lords, you see how necessary it is that our principles be known, and how fatal to us all it is that this principle should be suffered to spread any further.

My Lords, to conclude: your Lordships have seen of what consequence this matter is to you; and that the appointing a day to consider, is no less than declaring yourselves doubtful, upon second and deliberate thoughts: that you put yourselves out of your own hands into a more than moral probability of having this session made a precedent against you. You see your duty to yourselves and the people; and that it is not really the interest of the House of Commons, but may be the inclination of the Court, that you lose the power of appeals. But I beg our House may not be *felo de se;* but that your Lordships would take, in this affair, the only course to pre-

serve yourselves; and appoint a day, this day three weeks, for the hearing Dr. Shirley's cause; which is my humble motion.

4. *Speech in the King's Bench in support of his application to be released on bail from the Tower, June* 29, 1677.[1]

My Lord,

I did not intend to have spoken one word in this business; but what hath been objected and laid to my charge by the King's counsel, Mr. Attorney and Mr. Solicitor, enforces me to say something for your better satisfaction. They have told you that my counsel in their arguments said that this Court was greater than the House of Peers; I dare appeal to your Lordship, and the whole Court, that it was never spoken by them: I am sure it was not by any direction of mine. What is said by my counsel and me is, that this Court is the most proper place to resort unto in those cases where the liberty of the subject is concerned. The Lords' House is the supreme Court of judicature in the kingdom; but yet there is a jurisdiction which the Lords' House do not meddle with.

The King's counsel mentioned it as a wonder that a member of the Lords' House should come hither to diminish the jurisdiction of the Lords. I acknowledge them to be superior to this or any other Court, to whom all appeals and writs of error are brought; and yet there are jurisdictions they do not challenge, and which are not natural to them or proper for them. They claim not to meddle in original cases; and so I might mention in other things: and I do not think it a kindness to any person or body of men, to give them a power or jurisdiction which is not natural or proper to their constitu-

[1] Shaftesbury had been committed to the Tower on February 16, 1677, by order of the House of Lords, during the pleasure of the King and of the House, for declaring that the Parliament had ceased to exist in consequence of a prorogation for a period exceeding a twelvemonth. The Duke of Buckingham, the Earl of Salisbury, and Lord Wharton, were imprisoned at the same time for like cause. In June, he moved by counsel in the King's Bench for a writ of *habeas corpus;* and on the return of the writ he was brought up to the bar on Wednesday June 27, and he applied to be released on bail. The arguing of the case was fixed for Friday, the 29th: when, the case having been opened by counsel for Shaftesbury, Serjeant Maynard and the Attorney and Solicitor General argued against counsel for the prisoner's release, and Shaftesbury replied to the Crown in this speech. The Court refused relief.

tion. I do not think it would be any kindness to the Lords to make them absolute and above the law; as I do humbly conceive this must do, if it be adjudged that they, by a general warrant, or without any particular cause assigned, do commit me or any man to a perpetual and indefinite imprisonment: and, my Lord, I am not so inconsiderable a person but what you do in my case must be law for every man in England.

Mr. Attorney is pleased to say I am a member of the Lords' House, and to lay weight on the word member. It is true I am one of them, and no man hath a greater reverence and esteem for the Lords than myself: but I hope, by being a peer or member of either House, I shall not lose the privilege of an Englishman, or have the less title to Magna Charta or the other laws of English liberty.

My opinion is not with one of my counsel (who argued very learnedly), that the passing an act by the King's royal assent cannot make a session, because the usual promise was not in it. It was without any instruction of mine that he mentioned that point.

The King's counsel tell your Lordship of the laws and customs of Parliament; and if this was so, I should submit: but this case of mine is *primæ impressionis*, and is a new way, such as neither Mr. Attorney nor Mr. Solicitor can show any precedent of; and I have no other remedy or place to apply myself to than the way I take.

Mr. Attorney confesseth, that the King's pleasure may release me without the Lords. If so, this Court is *coram rege;* this is the proper place to determine the King's pleasure. This Court will, and ought to judge an Act of Parliament null and void if it be against Magna Charta; much more may it judge an order of the House, that is put in execution to deprive any subject of his liberty: and if this order or commitment be a judgment, as the King's counsel affirm, then it is out of the Lords' hands, and properly before your Lordship, as much as the acts which were lately passed, which, I presume, you will not refuse to judge of, notwithstanding Mr. Attorney-General saith that this Parliament is still in being. I take it something ill that he tells me I might have applied elsewhere.

My Lord, I have not omitted what became my duty to the King: for, besides the oath of allegiance I took as a peer or an Englishman, there is something in my breast that will never suffer me to depart from the duty and respect I owe him. I

am here before him: he is always supposed to be here present, and he alloweth his subjects the law.

My Lord, they speak much of the custom of Parliament: but I do affirm there is no custom of Parliament that ever their own members were put out of their own power; and the inconveniences of it will be endless.

Mr. Attorney was pleased easily to answer the objection of one of my counsel: if a great Minister be so committed, he hath the cure of a pardon, a prorogation, or a dissolution. But if the case should be put, why forty members, or a greater number may not as well be taken away without remedy in any of the King's courts, he will not so easily answer; and if there can be no relief in this case, no man can foresee what will be hereafter.

I desire your Lordship will consider what rule you make in my case; for it will be a precedent that may, in future ages, concern every man in England.

My Lord, Mr. Attorney saith you must either release or remand me. I differ from him in that opinion: I do not insist upon a release. I have been a prisoner above five months already, and came hither of necessity, having no other way to get my liberty; and, therefore, am very willing to tender your Lordship bail, which are in or near the Court, as good as any are in England either for their estates or quality; and I am ready to give any sum or number.

My Lord, this Court being now possessed of the business, I am your prisoner.[1]

5. *Speech on the claim of Robert Villiers to the title of Viscount Purbeck, June* 18, 1678.[2]

The stress of the argument for the King in this case is founded upon these two assertions:

1. That honours are taken to be within the statute, *de donis*, &c., and the general rules of that statute.

[1] At the conclusion of this speech three of the Judges gave their opinions that Lord Shaftesbury could not be relieved by that Court; and though the fourth (Judge Twisden) was not present at the hearing, he had, before the Court sat, desired Sir Thomas Jones to deliver his, likewise, against the discharge.

[2] Among the issue of Sir George Villiers, by his second wife, who survived him and after his death was created Countess of Buckingham, were John, created in 1619 Baron Villiers of Stoke and Viscount Purbeck, and George, who became the celebrated Minister of James I., and Duke of Buckingham. The first Viscount Purbeck died in 1657,

2. And then, secondly, that honours are to be governed, as other inheritances, by the rule of the common law.

As for the first, it hath not been proved; for the resolution in Nevil's case (2 Jac.) was extra-judicial, and no judgment of any cause before them: and in such cases the Judges do not hold themselves to be upon oath; and if there be two or more of another opinion, they do not refuse to sign the resolution of the major part, and so it goes under the denomination of all the Judges; but if it were a judgment of them altogether, they could neither alter nor make new the law, neither could they make that intended within the statute *de donis*, &c., which was not in being till many ages after—Beauchamp in Richard the Second's time being the first honour that was entailed by patent. The second assertion is contrary to the opinion of the most learned men, the honour and dignity of the House, the constant practice of Westminster Hall, and the direct evidence of the thing itself. Justice Berkeley, a very learned Judge, declared his opinion, February 6, 1640, as appears by the records of this House, that honours descend from the first that was seized of them, contrary to the rules of other inheritances; and that honours are not governed by the rules of the common law. Justice Doddridge, in Jones, 207, is of opinion, that honours are personal dignities, which are affixed

and the title descended to one notoriously the offspring of an adulterous connection of his wife with Sir Robert Howard, while she was living separate from her husband. This gentleman, however, who had already discarded the name of Villiers for Danvers, his wife's name, spurned also his peerage, destroyed the enrolment of the patent, and in 1660, when called to his place in the House of Peers, denied his peerage, and said the King had given him leave to levy a fine of it. He died in 1675, and his eldest son, Robert, claimed the title of Viscount Purbeck. The claim was opposed by Shaftesbury's friend, the Duke of Buckingham, nephew of the first Viscount. The above speech of Shaftesbury is confined to one question arising out of the petitioner's claim, viz. whether a fine levied to the King by a peer of his title can extinguish it; and the unanimous judgment of the Lords was with Shaftesbury's opinion, that a title of peerage could not be so extinguished. But there were two other questions raised which the Lords did not decide, viz. the legitimacy of his father, and the existence of the patent of peerage. (Lords' Journals, June 7, 1678.) The Lords, after resolving the legal question in the claimant's favour, presented a petition to the King for leave to bring in a Bill to disable the petitioner to claim the title, and Shaftesbury was prominent in promoting this petition. The King gave an evasive answer, and the claim was not persisted in. This speech is reprinted from Shower's Parliamentary Cases.

to the blood: the Lords never yet suffered their honours to be tried at any court of law, or any other where, save before themselves, though their other inheritances are tried there, as well as other men's. So *possessio fratris* holds of lands, but not of a dignity, which is not disposed of as other inheritances, nor will it be guided by the strict rules of law. The Lord Coke is of opinion, in Bedford's case, that an honour could not be taken away but by Act of Parliament; therefore it will be allowed that the concurrence of all parties concerned may extinguish this as well as other inheritances, but the concurrence of all cannot be without Act of Parliament: for the whole kingdom have an interest in the peerage of every Lord. It is a dangerous doctrine to say our judicature and legislature is our own only. The House of Lords is the next thing to the Crown, though that be far above them; yet those that reach at that must take them out of the way first; they were voted useless and dangerous before the Crown was laid aside: and as in descent of the Crown the whole kingdom hath such an interest in it, as the King cannot surrender or alien it; so in a proportionable degree, though far less, the King and kingdom have an interest in their Lordships, and dignities, and titles. It is true they may be forfeited; but it doth not follow that they may be extinguished by surrender. There be two reasons for the forfeiture—

1. There is a condition in law, that they shall be true and loyal to the Government.

2. Honours are inherent in the blood; and when that is corrupted, that which is inherent is taken away; but in case of a surrender, these reasons do not hold: there is no breach of any condition in law, nor any corruption of the blood, for these reasons. Felony without clergy forfeits honours; whereas other inheritances, though fee simple, are lost but for a year and a day. And so are freeholds for lives; which is another clear instance that honours are not governed by the rules of law. It is pressed as a known law, that honours are grantable for lives: a point of greater consequence than the thing in debate. It is not a fair way of arguing, nor to be allowed of. As for the precedents that are, Selden, 730, is expressly against them: for it saith that the honours or baronages were in Abbots only in right of their abbeys, not inherent in them: so that it is plainly inferred that other honours are personal dignities. The Lord Delaware's case (11 Rep.) makes nothing of them; for it doth not follow, that because he

could not surrender that which was not in him, therefore he might surrender that which was in him. As to the other precedents, he gave these three reasons:—

1. They were bare surrenders; no fines.

2. All those that were made by persons that had advantage by them having greater honours granted unto them; or such whose interest was beyond the seas, and therefore were willing to quit their dependencies here upon good considerations that pleased them: *et volenti non fit injuria.*

3. All these surrenders passed *sub silentio*, and never admitted of any dispute. But as for the sole melancholy precedent of Roger Stafford, 1638, which was condemned in Parliament 1640, it is to be observed that resolution cannot be condemned because of the fines; for the affront to the Lords, in taking such a fine, was in 1638, and when it could be more properly remedied than in 1640, except it be expected that there were a prophetical spirit of judgment against a thing not in being. There were ninety-four Lords present, and the vote was *nemine contradicente*, which gives it as great an authority as any resolution that ever was. The King's counsel were not heard in the case of ship-money, nor knighthood-money, where they had more right to claim to be heard than in this case. To conclude; a fine is a judgment in Common Pleas; and your Lordships' honours are not triable in that Court below in Westminster Hall; but if the fine be allowable, they must be triable there as well as other inheritances.

And as to what has been said, that some of your Lordships sit here by remainders, and they are in danger, if honours be not allowed to be entailed, it is denied; and if they be entailed, it is not of the same nature with other inheritances; neither doth any Lord sit here by title of a remainder, but by virtue of a new grant in the same patent.

6. *Speech in the House of Lords on the State of the Nation, March* 25, 1679.[1]

My Lords,

You are appointing the consideration of the state of England to be taken up, in a Committee of the whole House, some day next week. I do not know how well what I have

[1] As to this speech see Chapter XVII. in this volume.

to say may be received, for I never study either to make my court or to be popular: I always speak what I am commanded by the dictates of the spirit within me.

There are some considerations that concern England so nearly, that without them you will come far short of safety and quiet at home. "We have a little sister, and she hath no breasts; what shall we do for our sister in the day when she shall be spoken for? If she be a wall, we will build on her a palace of silver; if she be a door, we will enclose her with boards of cedar." We have several little sisters without breasts; the French Protestant Churches, the two kingdoms of Scotland and Ireland. The foreign Protestants are a wall, the only wall of defence of England. Upon it you may build palaces of silver, glorious palaces.

The protection of the Protestants abroad is the greatest power and security the Crown of England can attain to, and which can only help us to give a check to the growing greatness of France. Scotland and Ireland are two doors, either to let in good or mischief upon us: they are much weakened by the artifice of our cunning enemies, and we ought to enclose them with boards of cedar.

Popery and slavery, like two sisters, go hand-in-hand. Sometimes one goes first, sometimes the other, in-a-doors; but wherever the one enters, the other is always following close at hand.

In England, Popery was to have brought in slavery; in Scotland, slavery went before, and Popery was to follow.

I do not think your Lordships or the Parliament have jurisdiction there. It is a noble and ancient kingdom: they have an illustrious nobility, a gallant gentry, a learned clergy, and an understanding worthy people; but yet we cannot think of England as we ought, without reflecting on the condition they are in. They are under the same Prince, and the influence of the same favourites and counsels. When they are hardly dealt with, can we, that are the richer, expect better usage? For it is certain that, in all absolute governments, the poorest countries are always the most favourably dealt with.

When the ancient nobility and gentry there cannot enjoy their royalties, their shrievaldoms, and their stewardaries, which they and their ancestors have possessed for several hundreds of years, but that now they are enjoined by the Lords of the Council to make deputations of their authorities to

such as are their known enemies: can we expect to enjoy our Magna Charta long, under the same persons and administration of affairs? If the Council-table there can imprison any nobleman or gentleman for several years, without bringing him to trial, or giving him the least reason for what they do, can we expect the same men will preserve the liberty of the subject here?

I will acknowledge that I am not well versed in the particular laws of Scotland; but this I do know, that all the northern countries have, by their laws, an undoubted and inviolable right to their liberties and properties: yet Scotland hath outdone all the eastern and southern countries in having their lives, liberties, and estates subjected to the arbitrary will and pleasure of those that govern. They have lately plundered and harassed the richest and wealthiest countries of that kingdom, and brought down the barbarous Highlanders to devour them; and all this without almost a colourable pretence to do it. Nor can there be found a reason of state for what they have done, but that those wicked Ministers designed to procure a rebellion at any rate, which, as they managed, was only prevented by the miraculous hand of God; or otherwise all the papists in England would have been armed, and the fairest opportunity given, in the just time, for the execution of that wicked and bloody design the papists had: and it is not possible for any man that duly considers it to think other but that those Ministers who acted so were as guilty of the plot as any of the Lords that are in question for it.

My Lords, I am forced to speak this the plainer, because, till the pressure be fully and clearly taken off from Scotland, it is not possible for me or any thinking man to believe that good is meant us here.

We must still be upon our guard, apprehending that the principle is not changed at Court, and that these men that are still in place and authority, have that influence upon the mind of our excellent prince, that he is not, nor cannot be that to us, which his own nature and goodness would incline him to.

I know your Lordships can order nothing in this; but there are those that hear me can put a perfect cure to it. Until that be done, the Scottish weed is like death in the pot, *mors in olla*. But there is something too, now I consider, that most immediately concerns us,—their act of twenty-two thousand men to be ready to invade us on all occasions. This, I hear, the

Lords of the Council there have treated as they do all other laws, and expounded it into a standing army of six thousand men. I am sure we have reason and right to beseech the King that that act may be better considered in the next Parliament there.

I shall say no more for Scotland at this time. I am afraid your Lordships will think I have said too much, having no concern there. But if a French nobleman should come to dwell in my house and family, I should think it concerned me to ask what he did in France; for if he were there a felon, a rogue, a plunderer, I should desire him to live elsewhere; and I hope your Lordships will do the same thing for the nation, if you find the same cause.

My Lords, give me leave to speak two or three words concerning our other sister, Ireland. Thither, I hear, is sent Douglas's regiment, to secure us against the French. Besides, I am credibly informed that the papists have their arms restored, and the Protestants are not, many of them, yet recovered from being the suspected party. The sea towns, as well as the inland, are full of papists. That kingdom cannot long continue in the English hands if some better care is not taken of it. This is in your power; and there is nothing there but is under your laws. Therefore I beg that this kingdom, at least, may be taken into consideration, together with the state of England; for I am sure there can be no safety here, if these doors be not shut up and made sure.

7. *Speech on the King's Speech, December* 23, 1680.[1]

My Lords,

In this great debate concerning the King's speech, the sad state and condition we are in, and the remedies thereof, I have offered you my opinion; and many Lords have spoken admirably well to it, with great freedom and plainness, as the case requires.

Give me leave to offer you some few words, in answer to two or three of my Lords of the Earls' bench, that have maintained the contrary opinion.

My Lord near me hath told your Lordships that the precedent of Henry the Fourth that I offered you,—who was a wise and magnanimous Prince, and yet, upon the address of his

[1] See Chapter XVII. of this volume.

Parliament, "put away a great part of his family and council at one time,"—is no proper instance; because he was an usurper, had an ill title, and was bound to please the people.

My Lords, I meddle not with his title. I am sure our King has a very undoubted one: but this my Lord must allow, that that wise Prince, having need of his people, knew no better way to please them, and to create a good intelligence between them and him, than to put away those from court and council that were unacceptable to them.

If our King had the same necessity to please the people,—though for other reasons than want of a title,—yet, I am sure the precedent holds that a wise Prince, when he hath need of his people, will rather part with his family and councillors than displease them.

My Lords, this noble Lord near me hath found fault with that precedent which he supposes I offered to your Lordships concerning the chargeable ladies at Court; but I remember no such thing I said. But if I must speak of them, I shall say, as the prophet did to King Saul, "What meaneth this bleating of the cattle?" and I hope the King will make me the same answer, "that he reserves them for sacrifice, and means to deliver them up to please his people:" for there must be, in plain English, my Lords, a change. We must neither have popish wife, nor popish favourite, nor popish mistress, nor popish councillor at Court, nor any new convert. What I spoke was about another lady that belongs not to the Court, but like Sempronia in Catiline's conspiracy, does more mischief than Cethegus.

In this time of distress, I could humbly advise our Prince would take the same course that the Duke of Savoy did, to suffer neither strangers nor ambassadors to stay above a few weeks in his country; for all the strangers and ambassadors have served the plot and design against us. I am sure they have no tie to be for us.

But, my Lords, what I rose up to speak was more especially to my Lord on the Earls' bench that spoke last, and sits behind me; who, as he hath the greatest influence in our present councils, so he hath let fall to you the very root of the matter, and the hinges upon which all turns. He tells you that the House of Commons have lately made offers to the King, and he wonders we do not expect the King's answer to them before we enter into so hot and high debates.

He tells you, if the King be assured of supplies, we cannot

doubt of his compliance in this and all we can ask; for otherwise the King must fall into that which is the worst condition of a Prince, to have his people have no confidence in him. My Lords, this is what I know they put the King upon; and this is what we must be ruined by, if we may not with freedom and plainness open our case.

My Lords, it is a very hard thing to say we cannot trust the King, and that we have already been deceived so often that we see plainly the apprehension of discontent is no argument at Court: and though our Prince be himself an excellent person that the people have the greatest inclinations to love, yet, we must say, he is such an one as no story affords us a parallel of. How plain and how many are the proofs of the design to murder him! How little is he apprehensive of it!

The transactions between him and his brother are admirable and incomprehensible; his brother's designs being early known to aim at the Crown, before his Majesty's restoration to this kingdom.[1]

The match with a Portugal lady not likely to have children, contrived by the Duke's father-in-law, and no sooner effected but the Duke and his party make proclamation to the world that we are like to have no children, and that he must be the certain heir.

He takes his seat in Parliament as Prince of Wales, has his guards about him, the Prince's lodgings at Whitehall, his guards upon the same floor, without any interposition between him and the King: so that the King was in his hands and in his power every night: all offices and preferments being bestowed by him: not a bishop made without him.

This Prince changes his religion to make himself a party; and such a party that his brother must be sure to die, or be made away with, to make room for him. Nothing could preserve his Majesty but that which I hope he will never do, —give greater earnest to that wicked party than his brother could: and after all, this plot breaks out plainly, headed by the Duke, his interest, and his design.

[1] It is well known that there was, before the Restoration, a design to bring in James instead of Charles. The Roman Catholics laboured very hard to effect this object, and Charles had so little confidence in the integrity of his brother that he refused to countenance a projected insurrection which it was proposed that James should head. (Clarendon State Papers, iii. 412. Somers Tracts, viii. 342.) Buckingham was supposed to be deeply implicated in this intrigue.

How the King hath behaved himself ever since the breaking out of it, the world knows. We have expected, every hour, that the Court should join with the Duke against us; and it is evident more hath been done to make the plot a Presbyterian plot than to discover it.

The prorogations, the dissolutions, the cutting short of Parliaments, not suffering them to have time to look into anything, have showed what reason we have to have confidence in the Court. We are now come to a Parliament again; by what fate or riddle I cannot guess, neither do I understand the riddle of it.

The Duke is quitted, and sent away: the House of Commons have brought up a bill to disable him of the Crown; and I think they are so far extremely in the right; but your Lordships are wiser than I, and have rejected it. Yet you have thought fit, and the King himself hath made the proposition, to make such expedients as shall render him but a nominal prince.

In the meantime, where is this Duke that the King and both Houses have declared unanimously thus dangerous? Why, he is in Scotland, raising forces upon the *terra firma* that can enter dry-foot upon us, without hazard of winds or seas; the very place he should be in to raise a party there, to be ready when from hence he shall have notice; so that, this being the case, where is the trust? We all think the business is so ripe, that they have the garrisons, the arms, the ammunition, the seas, and soldiery, all in their hands. They want but one good sum of money to set up and crown the work, and then they shall have no more need of the people; and I believe whether these are pleased or no, will be no great trouble to them.

My Lords, I hear of a bargain made in the House of Commons, and an address made to the King. But this I know and must boldly say and plainly, that the nation is betrayed if, upon any terms, we part with our money till we are sure the King is ours. Have what laws you will, and what conditions, they will be of no use but waste-paper before Easter, if the Court has money to set up for Popery and arbitrary designs in the meanwhile.

On the other hand, give me leave to tell you, my Lords, the King has no reason to distrust his people. No man can go home and say, that, if the King complies with his people, they will do nothing for him. We want a government, and

we want a Prince that we may trust even with the spending half our annual revenues for some time, for the preservation of these nations.

The growing greatness of the French cannot be stopped with a little expense, nor without a real and hearty union of the King and his people. It was never known in England that our Princes wanted supplies either for their foreign designs, or for their pleasures; nothing ever shut the English purses but the fear of having their money used against them.

The hour that the King shall satisfy his people that what we give is not to make us slaves and papists, he may have what he will; and this your Lordships know, and all mankind that know us. Therefore let me plainly tell your Lordships, the arguments which the present Ministers use are to destroy the King, and not preserve him: for if the King will first see what we will do for him, it is impossible, if we are in our senses, we should do anything: but if he will first show that he is entirely ours; that he weds the interest and religion of the nation; it is impossible,—it is impossible he should want anything that we can give.

But I see how the argument will be used. "Sir, they will do nothing for you, what should you do with these men?" But, on the other hand, I am bold to say, "Sir, you may have anything of this Parliament. Put away those men, change your principles, change your Court, and be yourself;" for the King himself may have anything of us.

My Lords, if I have been too plain, I beg your pardon. I thought it was the duty of an English nobleman, at this time, to speak plain, or never.

I am sure I mean well: and if any man can answer and oppose reason to what I say, I beg they will do it; for I do not desire or propose any question merely for talking sake.

I beg this debate may last some days, and that we may go to the very bottom of the matter, and see whether these things are so or no, and what cure there is for the evil we are in; and then the result of our debates may produce some proper question.

However, we know who hears us; and I am glad of this, that your Lordships have dealt so honourably and so clearly in the King's presence, that he cannot say he wants a right state of things. He hath it before him, and may take counsel as he thinks fit.

APPENDIX VII.

Letters and Papers after the Lord Chancellorship.

1. *Letter from Sir Robert Southwell, Clerk of the Council, to Earl of Shaftesbury, January* 3, 1679; *enclosing copy of deposition of John Lund, relating to a design against Shaftesbury's life.*[1]

COUNCIL CHAMBER, 3 *Jan.* 1679.

MY LORD,

Before reading this day to his Majesty in Council the examination of John Lund, who was prosecuted by the Earl of Essex, his Majesty was pleased to order that the said Lund do attend the Board the next Council day, the better to find out a way for the discovery and due punishment of the offenders therein mentioned. And I am commanded by his Majesty to send your Lordship a copy of the said examination that your Lordship may be advertised of the words which were spoken, and also know the care that his Majesty is taking to do all possible justice therein.

I am, with all respect, my Lord,
Your Lordship's most humble and most obedient servant,
ROBT. SOUTHWELL.

[1] There is no other information about this alleged design on Shaftesbury's life. It appears from the registers of the Privy Council, in the Council Office, that Lund appeared a second time before the Council, but nothing more was elicited, and the matter appears to have then dropped. The third person alluded to with a name like Halle, or Alle, was probably Lord Halifax. Sir Robert Southwell's communication to Shaftesbury is interesting, as showing the King's desire to conciliate him at this moment, just after the prorogation, when the Popish Plot and Lord Danby's impeachment were the pending questions.

The Examination of John Lund of Iver, in the county of Bucks, taken upon oath before me, Henry Coventry, Esq., one of his Majesty's principal Secretaries of State, the 2nd of January, 1678, who being duly sworn and examined, saith:

"That upon Tuesday, the last day of December last, about six o'clock the same evening, this examinant, being abroad to look after some wood-stealers, he saw seven or eight men on horseback coming from Iver Heath towards Iver town, and three or four of them parted and went the way towards Rickmansworth, and the other four came down the lane near which this examinant stood. One of them having occasion to untruss, he alighted, and the other held his horse and commanded the other two to go forwards, who this examinant supposed were their servants. This examinant saith that he was on the other side the hedge, and very near the person who alighted, and heard one of them say to the other, 'How are things like to go?' The other answered, 'Well enough, for as for that inquisitive dog Shaftesbury, and that dog Essex, and one other, whose name this examinant did not perfectly hear, but it was Halle or Alle, or some such sound, their business should be done.' The other asked which way: he said, 'One Mac——, who was a clever, stout fellow, and had courage, would do it in woman's apparel.' The other asked again, 'Are you sure he will do it?' 'Yes,' saith he, 'he will, but if he will not, there are a thousand will do it for the same encouragement.'

"And this examinant further saith, that he heard one of the said persons say to the other, 'Do not fear or be discouraged, for we will send their souls to the devil for a New-year's gift,' and then they mounted and went forwards to a place where the ways parted, and two of them went towards Kingston, and the other two towards Windsor. One of the persons who had this discourse under the hedge had a black cap on his head, and the other a hat. All the horses were dark-coloured, and two of the persons had waist-belts on, and one of them had a laced livery as near as this examinant could perceive, and further this examinant saith not.

"JOHN LUND."

Taken before me
the 2d of January, 1678,
Henry Coventry.

2. *Despatch of M. Barillon, French Ambassador, to Louis XIV., April* 21, 1679, *on the new constitution of the Privy Council.*

(Translated from the Original in the Archives of the French Foreign Office.)

LONDON, *April* 21, 1679.

SIRE,

The business of which I gave your Majesty an account in general terms by the last post was yesterday made public. The King of Great Britain declared in the Council that he had resolved to reduce that body to a smaller number, and that it would be composed of only thirty-three persons, instead of sixty who were now members.

This Council is to take cognizance of all affairs, interior as well as foreign. He will have no other Council, and what was called the Cabinet Council will be entirely abolished. I send in a separate paper the names of those who are to compose the Council, which will be established to-morrow.

The rank which is given to Lord Shaftesbury, of President of the Council, has with it a salary of four thousand pounds; his rank is immediately after the Chancellor, *i.e.* before all the Dukes and the other great officers. This post has not been filled since the restoration of his Britannic Majesty. But it has been always before very important. Many think that Shaftesbury will return to the post of Chancellor, which he had before his disgrace.

A greater change could hardly take place in the government of any State than that on which the King of England has resolved. His affairs are going to be placed in the hands of men who have for some years past openly opposed all the designs of the Court, and all the wishes of his Majesty.

This Prince has thought that this was the only means which remained for him of avoiding a complete ruin, and that the satisfaction which he gives his subjects will induce the Lower House to do all that is necessary for meeting the expenses of the State; and he is even led to hope that he will have money for his private wants.

I have been informed by Lord Holles of the negotiations with him. He has had a great part in the whole business; and it is chiefly with the Presbyterians, of which party he is the head, that the Court has taken its measures.

He has given me all possible assurances that the people of his party would do nothing in the present conjuncture which could mark any aversion to France. Their plan, on the contrary, according to what he tells me, is to revoke the prohibition of commerce, and lay the foundation of a future correspondence between France and England.

Mr. Montagu has also given me information of the negotiation, of which he had some knowledge by Lord Shaftesbury. He pretends that it will be easy for him to enable me to establish a close connexion with Shaftesbury, when I shall have orders to that effect from your Majesty.

The Duchess of Portsmouth spoke to me some days ago, and told me almost exactly what is now taking place. She showed much grief and a great fear for the King of England on seeing him reduced to placing himself in the hands of his enemies, and to having his most important affairs managed by those who have been his greatest opponents. She has known the whole negotiation, and has not made opposition to it, from the fear she is in of being attacked in Parliament.

Lord Sunderland has also entered into the change for the same reason, and because he knew well that he was not in a state to bear alone the weight of affairs.

The Duke of Monmouth, who is closely allied with Lord Shaftesbury, has spared no effort to induce the King of England to take Shaftesbury back into power. It is not without much repugnance that his Majesty has come to this resolution. They have represented to him the necessity of his taking the only course which remained to prevent his losing everything. They have cited to him the example of Lord Strafford, who had been raised to favour and to the Ministry after having been one of the most violent of the House of Commons. They have not forgotten to represent to him also that Lord Danby came to power after having been long opposed to all the desires of the Court.

This establishment of new Ministers appears likely to effect the entire ruin of the Duke of York; and the King of England, having sacrificed all his authority, will make no difficulty about whatever will be proposed to prevent the Duke of York from being able to injure the Protestant religion, if he comes to the Crown. It will require some days to make out what will be the consequences of so great a change. It is not thought that any one of the Ministers will alone have the conduct of affairs, because all will wish to

please the Parliament, and will fear the envy and the danger which always follow favour in this country.

The King of England has sent two companies of dragoons to Portsmouth, as if there were some danger of a descent there. I omit nothing that can help to make known the little ground there is of apprehension on account of the preparations which your Majesty is making in your ports. I think that sensible people believe me, but care is taken to spread everything that may increase suspicion, and the English people are susceptible of all sorts of impressions against France. It is time only which can undeceive them. All this will not prevent the disbanding of the army. But I think that the Lower House may give money for putting the fleet in good order, which will be a considerable expense. There is a design also of making the militia capable of serving for the defence of the country, as well as regular troops. This is rather in opposition to the Court, than with the view of defence against foreigners.

I have the honour to be,
with profound respect, Sire,
Your Majesty's very humble, very obedient,
very faithful servant and subject,
BARILLON.

3. *Instructions for Members of the Parliament summoned for March* 21, 1681, *and to be held at Oxford.*[1]

GENTLEMEN,

We have chosen you two, our knights, to represent this county at the Parliament to be holden at Oxford the twenty-first of March next; and we do give you sufficient power to act on our behalf in all things that shall be found, by joint advice with the Members of Parliament chosen for other places, to be for our public good and welfare; which we must leave to your integrities and prudence. Only there are

[1] These instructions are believed with all probability to have been prepared by Shaftesbury, and are therefore inserted here. They were found among Lord Shaftesbury's papers by Mr. Martyn, who published them (Life, ii. 266). In any case, they convey Shaftesbury's sentiments.

some particulars so manifestly and indisputably necessary, that we cannot omit to give you our instructions and directions beforehand in them.

First. We all expect that you should, to the last, insist for a bill to exclude the Duke of York by name, and all other Popish successors, from coming to the imperial crown of this realm.

Secondly. That you insist upon an adjustment to be made betwixt the King's prerogative of calling, proroguing, and dissolving Parliaments, and the rights of the people to have annual Parliaments to despatch and provide for those important affairs and business that can nowhere else be taken care of; for, without the certainty of Parliaments meeting in due distance of time from each other, and their sitting so long as shall be necessary for the despatch of the affairs of the nation, it is not possible but that our laws, liberties, lives, and estates should become in a short time at the will of the prince.

Thirdly. We expect you should restore us to that liberty we and our forefathers have enjoyed, until these last forty years, of being free from guards and mercenary soldiers; it being the inseparable right of a free nation that they themselves, and no separate number of paid or hired men, should have the guard of their own prince, government, and laws.

Lastly. Although we mention these three particulars as most necessary to us, yet there are several others of great importance which we leave to your wisdoms; assuring ourselves that, until you have fully provided for a complete security against Popery and arbitrary power, you will not give any of our money.

4. *Letter from John Locke to Thomas Stringer, March* 26, 1681, *giving an account of the proceedings of the Parliament held at Oxford.*[1]

OXFORD, 26*th March*, 1681.

SIR,

I thank you for your letter, and for your good wishes therein. I hope our good patriots are not in so great danger

[1] This letter of Locke is printed in Martyn's Life, having been derived from the papers at St. Giles's.

in this place as you fear: however it is, I do not find here any great apprehensions of it: there is, indeed, a general despair that nothing will be done for the Protestant settlement and security.

On Monday the twenty-first the King spoke to the two Houses. His speech, I hear, was cried about London streets before it was printed here. I need not make any observations on it, nor tell you how it was resented. The Lord Chancellor said nothing, but that the King commanded the Commons to go and choose their Speaker, and present him the next day at three in the afternoon. In the choice of Mr. Williams, at this time, there was this unusual, that, whereas one used to rise up and recommend, a great number with one voice called Mr. Williams to the chair, so that they could not tell who spoke first; but some say Mr. Montagu was the first that stood up, and he and Sir John Hotham conducted him to the chair. After the King's speech, the Lords read a bill for repealing the 35th of Queen Elizabeth, and ordered it to be read the second time the next day.

On Tuesday the twenty-second, my Lord Shaftesbury moved that it might be examined, in a Committee of the whole House, by whose default it was that the first Bill of Repeal of the 35th of Queen Elizabeth was not presented to the King upon the prorogation of the last Parliament; which was accordingly ordered. Then they read the said bill a second time, and it was moved that it might be read a third time the next day; but my Lord Halifax desired it might be committed; not that he was against the bill or the expediting the passing of it, but that it might pass with the more formality. My Lord Chancellor was for the passing of the bill; the Bishops were against it. My Lord Chancellor said it was always thought a hard law, and was never put in execution that he heard of but once: that it was judged by most lawyers to be expired, till the Act of Uniformity. By that Act it was declared to be in force; and if we should hereafter be so unhappy as to have a King that should favour Popery, it would be a dangerous tool in his hands against the Protestants. With saying much more to that purpose, he wished them to expedite the passing of it. The Bishop of London replied upon him with much vehemence and some reflection; speaking long, but his speech was one of those that cannot be remembered. All that I could learn of it was, that the Act of the 35th of Queen Elizabeth was the

only means the Church had now left to free herself of schism. A lord [1] (a friend of yours) replied, he thought that this bill had been lost by a Court trick, to bring in a new way of a negative; but now he saw it was partly ecclesiastical, since they had rather leave such a weapon to fall into Popish hands than the Church should lose it. The Lord Halifax said he could easily guess what that Lord would say; and that the Bishops (for divers had spoken against the Bill of Repeal, as Ely, Salisbury, Durham, &c.) had given him great advantage by this opposition; and he could not but wonder at it, and feared the whole nation would suspect them. The issue was, the bill was committed to a private Committee. At three in the afternoon the Speaker presented himself to the King. There was nothing remarkable but that passage in the Speaker's speech wherein he told the King he might see the House of Commons were not given to change, by their choosing him again for their Speaker.

On Wednesday the twenty-third, the Lords, in a grand Committee, examined the Clerk of the Crown why he did not present the first Bill of Repeal to the King: his answer was, that the Clerk of the Parliament had always the custody of the bills, and that he presented all that the Clerk of the Parliament delivered to him; which was accepted as a sufficient answer. Then the Clerk of the Parliament was examined, who gave this account: that, understanding the King came in his robes, he brought the bills: as he was bringing them, he met my Lord Falconbridge, who asked him how many bills he had; he told him four: he said he heard the King would pass but three of them; whereupon he went up to my Lord Chancellor, and told him what my Lord Falconbridge said. My Lord answered him, he did not know what the King would do, but he would ask him. The King bid him bring in the bills to the Prince's lodgings to him: then the King took a certain Lord aside, and talked with him in a corner of the room; after which he came to the Clerk of the Parliament, and told him he would not pass the Bill of Repeal. Then the Clerk asked the King if he should write upon the Bill of Repeal the words the King uses, and which, it seems, are writ upon it when the King refuses a bill: the King said no, but that he should leave it there, and not bring it into the House to be offered. Many good debates were upon

[1] Lord Shaftesbury.

this subject, but they are too long to rehearse. The further consideration of it is adjourned to Tuesday next. All this day was spent by the House of Commons in swearing their members.

Thursday the twenty-fourth, the Lord Norris brought in my Lord Danby's petition, which was very short, not praying to be brought to a speedy trial, but setting forth his long imprisonment and great infirmities thereby contracted, praying to be bailed. My Lord Aylesbury seconded it; my Lords Berkeley, Arundel of Trerice, Clarendon, and others, pressed it; and if it had been put to the question, they would have carried it abundantly: but my Lord Halifax's opposing it as a thing very unseasonable, that would breed heats and hinder the public business, put off the question, and the further debate of it, till Monday next. The rest that opposed it you will easily guess.

Some part of this day the House of Commons spent in swearing the rest of their members, settled Committees, and received petitions about elections, and ordered four elections to be tried at the bar: that of Bristol, being one, is to be heard on Monday se'nnight. Then they ordered to take into consideration the not tendering the Bill of Repeal to the King the last Parliament; on Friday and on Saturday, to take into consideration the preservation of the King's person and the Protestant religion, upon which subject there were some warm debates, the exclusion of the Duke being mentioned as the only expedient. The printing of the votes was likewise ordered, which Mr. Secretary Jenkins opposed with all his might, saying it was an appeal to the people; but he was soundly mumbled for his pains, and the vote carried with a torrent.

My time and my paper are almost at an end; and I must let alone yesterday's business, which was a great day in the House of Commons.

The Lord that the Clerk of the Parliament said went aside with the King in the Prince's lodgings, it is whispered, was my Lord Halifax; but the Lords would not permit that Mr. Brown should be pressed to tell his name to the committee. We are told my Lord Halifax and Mr. Hyde are now the intimate and only counsellors.

I am, sir, your most humble servant,

J. Locke.

5. *Despatch from M. Barillon, French Ambassador, to Louis XIV., March* 28, 1681, *relating a conversation between Shaftesbury and the King at Oxford about the Duke of Monmouth and the succession.*

(Translated from the original in the Archives of the French Foreign Office.)

SIRE,

The King of England being two days ago in the Upper House before the Lords had taken their places, Lord Shaftesbury approached and handed him, through the Marquis of Worcester, a paper, which he said had been addressed to him anonymously. This letter says that the only remedy for the disorders which threaten England is to do henceforth what his Britannic Majesty promises in his speech to accept as to the expedients for placing the administration of government in Protestant hands in the case of a Papist coming to the Crown; and that for that purpose the Duke of Monmouth must be declared successor, and a measure which can settle matters in a day must not be postponed.

The King of England read the paper, and afterwards said to Lord Shaftesbury that he would be very glad to have a legitimate son, and be able in honour and conscience to see a child of his own capable of succeeding him rather than his brother and his brother's children; but that on consideration would induce him to take resolutions contrary to all law and justice, and that means must be sought for satisfying the people other than measures so unjust and odious.

Lord Shaftesbury replied: "If you are restrained only by law and justice, place your reliance on us and leave us to act. The laws will be on our side, and we will make laws which will give legality to a thing so necessary for the quiet of the whole nation, and by which great calamities will be avoided."

The King of England rejoined: "My Lord, let there be no self-delusion. I will never yield, and will not let myself be intimidated. Men become ordinarily more timid as they grow old: as for me, I shall be, on the contrary, bolder and firmer, and I will not stain my life and reputation in the little time that perhaps remains for me to live. I do

not fear the dangers and calamities which people try to frighten me with. I have the law and reason on my side. Good men will be with me. There is the Church (pointing to the Bishops) which will remain united with me. Believe me, my Lord, we shall not be divided, and I hope that shortly there will be none but poor creatures and knaves to support a measure without any good foundation."

This speech was heard with great attention by many. The Duke of Monmouth was near enough to hear it, and he was talking in a low tone, as if in ridicule of the proposal of the letter presented by Lord Shaftesbury.

There are different reflections made here on this incident. The friends of the Duke of Monmouth seek to derive advantage from it, and represent it as a great thing for him that this proposal has been brought before the King of England and publicly advocated by a man so highly thought of (*aussi accrédité*) as Lord Shaftesbury. They say that one must not regard as final the answer of his Britannic Majesty, which could not be other than it was, and that in reality he would wish to be forced to acknowledge the Duke of Monmouth, and that that is the right road.

The Ministers and the Duke of York's friends say that the King has done well to explain himself forcibly, and state the reasons which prevent him from consenting to an interruption of the lawful succession. The friends of the Prince of Orange begin to be alarmed at seeing that the pretension of the Duke of Monmouth is no longer a mere chimera, but that it is treated seriously and as a possibility. Some persons, and especially foreigners, are surprised that the King of England should enter into discussion on affairs of such consequence with a private individual, and commit himself to hearing things injurious to his dignity. All are agreed that it is not a disadvantage for the Duke of Monmouth that he has been spoken of so openly, and that it is no small thing for him that people are getting accustomed to regard his elevation as a remedy for the disorders with which England is threatened.

I am,
With duly profound respect,
Sire,
Your Majesty's very humble, very obedient,
very faithful servant and subject,
BARILLON.

6. *Proceedings in the Committee of Foreign Affairs of the Privy Council, June* 21, 1681.[1]

My Lord Hyde's Speech.

My Lords, I think it fit that his Majesty do provide for his defence and security before my Lord Preston[2] be sent with so bold a demand, for he not having money for to maintain a war, and very little likelihood of getting any from his people, his Majesty may be forced to a dishonourable treaty. I hope his Majesty will not take ill the sincerity of my advice, and I pray things be adjourned till we have united his Royal Highness to the Parliament, and got money to maintain that which requires so vast a charge.

My Lord Halifax.

His Majesty may be sure to have money, when once bravely engaged against one whom the country so much abhorreth, and if he be not engaged therein before the Parliament sit, they will advance no money for any design whatsoever. Therefore, if his Royal Highness have a public command in his design, he will then have it in his own breast to unite the people again; and if this be long deferred, I assure you it may prove dangerous both to the government and trade. The French King will in a little time, if he be let alone, grow so potent as not to need our help or value our hatred; and when once it is done, and the Ministers despatched, as well to Holland as France, to acquaint them early with it, lest they pretend jealousy,—I say when that is done, we may safely have a Parliament, and just before that must secure Shaftesbury. As for the Duke of Monmouth, he cannot hurt the progress of this affair, and I wish his Royal Highness prove but compliable in this, then we trample all those little pretenders in pieces.

My Lord Clarendon.

My Lords, I am glad to see your Lordships go so vigorous as you designed, earnest in the thing, and now I find it

[1] This paper I found among Lord Shaftesbury's papers at St. Giles's: how it came there I have no means of telling or judging. It is specially important in connexion with Shaftesbury, as showing that Lord Halifax and Lord Clarendon urged his being arrested.

[2] Lord Preston was the Ambassador for France.

proves so. I humbly offer my opinion to your Lordships, and that is, first to despatch our Minister to Holland and engage the States sure in a thing which they will, I am sure, very willingly embrace, then send to the German Courts and to Mr. Skelton,[1] &c., and after we have acquainted them with the design to lessen the growth of that monarch who will endeavour to lessen them; and, thirdly, let us endeavour to stop factions at home, secure Shaftesbury, banish those the Court that are any way suspected to have been corrupted by the French Court and get him[2] removed, then get a Parliament and give a fair account of things, that the sincerity thereof may not be questioned, and tell them his Majesty's necessity for money to manage a war against so common an enemy, and I believe they are as well sensible as humble, and will not at this conjuncture of time deny the King money.

MR. SECRETARY JENKINS.

I am sorry to see you run into so many divisions of affairs, when his Majesty requested your advice only as to the sending away my Lord Preston to France, and has commanded me to know your opinion in that thing alone, and beg you to consider the weightiness that remains to such a debate, that it is a great Prince we shall enrage, and that hath both moneys and armies, and that can take money whensoever his occasion requires, and we must balance the weakness of his Majesty against the French King's great popularity; only let me tell you that it is not his Royal Highness having a great command will do it without men and money to subsist in so great an enterprise; and when we have considered this, and that a prospect of money is made, I assure you we need not question his Royal Highness's courage or integrity, nor his capacity in what his Majesty shall command him.

MY LORD CONWAY.[3]

His Majesty hath ordered you my Lord Hyde, my Lord Halifax, Mr. Seymour, Secretary Jenkins, Lord Chamberlain, Lord President, Lord Chancellor, and Archbishop of Canterbury, to attend him at four o'clock.

[1] Mr. Skelton was Envoy to Vienna.
[2] *Him* is doubtless the French Ambassador, Barillon.
[3] Secretary of State. He had succeeded Sunderland in April 1680.

HIS MAJESTY.

My Lords, I have some questions to put to you for the remedy of the ills that might happen if done without your advice. I have sent for you to let you know—

1. That I am going to send positively to demand restitution from the French King of the late conquests in the Spanish Netherlands and Germany;
2. To make an agreement and peace with Holland;
3. To make a peace with the Emperor of Morocco;
4. To lessen the charge at Tangier.

Upon these four things I desire your advice, and till I receivé it I have stayed my envoys to Holland and France.

THE LORD CHANCELLOR.[1]

I do very well approve of the demands from the French King of the said conquests, but I am not willing to advise it till I know what stores of money and other necessaries your Majesty is furnished with, and if your Majesty then have such a design, it will be a great means to satisfy the people. Next, an agreement with Holland and other your Majesty's neighbours is most requisite as well for our defence as your poor subjects' traffic. As to the peace with the Emperor of Morocco, none can disprove or dislike your Majesty's design, by reason the account which will return to your trading subjects will be so great as to increase your customs to a vast sum, and when the peace is concluded you may lessen your charges and employ the men and money other way, both to your own good and your subjects' content.

MR. SEYMOUR.

If your Majesty can raise a force answerable to the design, it is no less noble than great; but first make sure your treaties with the other Princes, offensive and defensive, and lessen the charge at Tangier and conclude a peace there, and then look at home to a Parliament; that is my opinion.

[1] Heneage Finch, Earl of Nottingham; he had been made Earl on May 12 of this year, 1681. He died, being still Lord Chancellor at the time of his death, December 18, 1682.

SECRETARY JENKINS.

I think not fit to let my Lord Preston go till your Majesty hath done as Mr. Seymour and my Lord Chancellor most prudently have advised, but despatch Mr. Chudleigh, and I much wonder at his long stay.

LORD PRESIDENT.[1]

Mr. Secretary, I beg your pardon for interrupting your discourse, I think Mr. Chudleigh[2] ought to go, that his Majesty may have an account of affairs from the States, and then he may know by what method or way we must proceed, for these things ought to be done before an open war be either advised or thought of, and till he is gone this debate may be laid aside and money thought of. I mean some to support the charge of this nation, which is great.

LORD CHAMBERLAIN.[3]

I am sure before these affairs are well considered, a peace ought to be well managed and made with the other Princes and States, and those whose welfare is really concerned ought to be engaged in an equal share, or else his Majesty will be deceived in getting money from Parliament, who will say it was a war advised and made with designs to impoverish the country. If that Spain, Holland, and Germany be equally shared in the charge of the war, we can then receive no blame.

MY LORD HYDE.

May it please your Majesty, that will be a great oversight, if not warily prevented, and we must deal cunningly with cunning men, and if, as my Lord Chancellor saith, you have involved your neighbours in articles, not any one singly to conclude a peace, and equally divide charges, then the design may prosper with the hopes of having money from the Parliament.

His Majesty thereupon gave his hearty thanks for their advice, and with their advice ordered Mr. Secretary to adjourn the Lord Preston's dispatch till further order, and in the

[1] The Earl of Radnor, Lord President of the Council.
[2] Mr. Chudleigh was the Envoy for Holland.
[3] The Earl of Arlington.

meantime to write to Mr. Savile[1] in France of his Majesty's said resolution, and that the Commissioners appointed to treat with the Morocco Ambassador make haste in drawing up articles for the peace with his master, and that Mr. Chudleigh depart immediately for Holland; also, that Mr. Secretary do get the French Ambassador removed, and that on Wednesday the Secretary give an account of what he has done in these orders.

[1] Henry Savile, brother of Lord Halifax, who was in charge of the Embassy in Paris in the absence of an Ambassador.

APPENDIX VIII.

Letter from Mrs. Hill, formerly Mrs. Stringer, widow of Thomas Stringer, Shaftesbury's Secretary, to Lady Elizabeth Harris, Shaftesbury's granddaughter, written probably in 1734.[1]

MADAM,

I beseech you don't break your rest, nor afflict yourself any more for the ignorance, folly, or malice of those scribblers, &c., who are so wicked and ungrateful to your great grandfather's memory. I remember Mr. Feltham, in one of his Resolves, upon some such great provocation, says, "If we will be patient, God will be profitable." I hope you will live to see this dark providence cleared up; as in his Medal, upon his being so wonderfully acquitted by the worthy jury, that were worth a million of money. It ought to be recorded to their honour, that they were so just, courageous, and pious, notwithstanding they were so rich. It was no less than a miracle in all respects; and I doubt not but, in due time, you and yours will see justice done to his memory, though, I must own at present, there appears but little hope. However, pray Madam, let us endeavour to have Habakkuk's faith, and trust in God.

In the meantime I sadly lament the loss of good Mr.

[1] When the fourth Earl of Shaftesbury, son of the author of the "Characteristics," first set Mr. Martyn on the preparation of a Life of the first Earl, probably in the year 1734, no one was more eager to assist in procuring information than Lady Elizabeth Harris, sister of the third Earl, and granddaughter of Shaftesbury the Lord Chancellor. Lady Elizabeth was mother of James Harris, the author of "Hermes." This letter, which is without date, would probably have been written in 1734. There is a memorandum attached to the letter, preserved at St. Giles's, dated December 21, 1739: "Mrs. Hill is still living, and enjoys her senses; she was born in the year 1651." She was therefore eighty-three in 1734, when Lady Elizabeth commenced her inquiries. Stringer died in 1702.

Stringer, methinks upon your account now; for, were he living, I am sure he would make it plainly appear that your grandfather did with all his might oppose the Dutch war, and shutting up the Exchequer, and that it grieved him to the heart when it was done.

I remember myself, the evening before the Exchequer was shut up, I saw Mr. Stringer and one other gentleman just come from my Lord, your grandfather, with dismal dejected countenances; they said his Lordship had told them that to-morrow would be a dismal day for poor England, and the Popish Councils were so powerful that he dreaded the consequences of it. But withal, he said, he would not quit his post, for that the King had often hugged him in his arms, and told him he had convinced them that his advice was the best to save himself and the nation, and that he would act accordingly for the future. But, as soon as my Lord had left him in his closet, where he had been with him in private, Lord Clifford and the rest of the Popish crew beset him so hard, that he would own sometimes he could not resist their importunity, with much more to this effect.

I cannot but hope my Lord your brother[1] has left Mr. Stringer's manuscript with Mr. Le Clerc. His Lordship and Mr. Stringer had set a time to have him come to Ivy Church,[2] to write his grandfather's life there; but Mr. Stringer's sickness and death prevented it. I am of the opinion he is writing of it, and waits for Bishop Burnet's Second Part, to see that before he publishes, that he may fully answer and detect him. I hope you will find it so.[3]

I wish my Lord Shaftesbury would get some intimate acquaintance of Le Clerc's to inquire about it. Sure never was so much art used, and pains taken to defame any one man in the world as he has been to invent lies, to write scandalous pamphlets, and publish them, in order to make the people have an ill opinion of him. Mr. Stringer once discovered where one Dr. Needham had five hundred pounds

[1] "My Lord your brother" is the third Earl, the author of the "Characteristics," who had died in February 1713.

[2] Ivy Church was a residence of Stringer, near Salisbury.

[3] The first volume of Bishop Burnet's "History of his Own Time" had been published in 1724: the second volume appeared in 1735. Le Clerc never published a Memoir of Shaftesbury; but his account of Locke, published in 1705 in the *Bibliothèque Choisie*, vol. vi., contains some notices of Shaftesbury from Locke's information.

for writing one scandalous book, called "Advice to the Men of Shaftesbury," without the least ground, or one single word of truth in it. It was a chief part of the Popish Plot to asperse his Lordship, because they knew he was their greatest and most dangerous enemy. Some of their witnesses deposed that upon this occasion, the Jesuits' maxim was to throw dirt enough, and they might be sure some would stick.

Were Mr. Stringer now living, I am sure he would detect Burnet's History with shame to his memory. It was amazing to see how miserable his vanity made him be. Imposed upon by the Duke of York, to serve the Popish interest, he ran bellowing about the town soon after Lord Essex's throat was cut, to persuade the people that he did it himself, when it was evidently proved he did not, nor could he do it himself; it was cut so wide beyond his power to do it. He might as well have endeavoured to persuade the people that Sir Edmund Bury Godfrey murdered himself. But most wonderful it was that this Bishop had imposed upon his own widow, Lady Essex, so far as to make her believe that he did actually cut his own throat. So much art he had to do mischief, and so much pains he took to do it, that it was thought he had turned her brain, for she always took occasion to talk of it, and to affirm that she believed it, and also that he was in Heaven for all that.[1] He also imposed upon the good, judicious Bishop Tillotson to write that abominable foolish letter to Lord Russell, the night before he was to be executed, which enraged Mr. Stringer so much, as soon as he had read it, he immediately writ a very short sermon upon the first verse of the 12th Psalm, "Help, Lord; for the godly man ceaseth," &c.,[2] and he sent it to Bishop Tillotson immediately, and the next day Lady Russell told your grandmother[3] that the Bishop had been with her that morning to beg her pardon for writing

[1] This is a very interesting statement, showing the strong belief which had existed among Lord Essex's friends, and was firmly fixed in this old lady's mind, that Essex, who was found dead in the Tower on the day of Lord Russell's trial, was murdered, and did not commit suicide. Lord Macaulay has stated with very positive brevity that "Essex perished by his own hand in the Tower." But the statement on the subject in Earl Russell's Life of William Lord Russell (p. 273 of ed. 1853) leaves the matter mysterious and doubtful; and Lord Macaulay's positiveness cannot certainly be justified.

[2] "Help, Lord; for the godly man ceaseth; for the faithful fail from among the children of men."

[3] Shaftesbury's widow, cousin of Lady Russell.

such a letter to her good Lord, for that he had not slept all that night, his trouble had been so great that indeed it was the greatest affliction he ever had in all his life. I doubt not but he concluded my Lady Russell had got a friend to write and send it to him; but no creature knew who writ it besides myself. He writ in a hand very different from his own, and sent it in a way he could not know whence it came. Poor Mr. Stringer never writ anything so well in his life, with such a spirit to make him sensible of his error.[1] Writing was not his talent; but Judge Holt told Sir John Crossley and several, that he understood the law perfectly well, and that he was the ablest justice of the peace in England; and poor Lady Russell came to him in her extremity of misery and sorrow, when her Lord was hurried in so barbarous a manner to Newgate. She then came to him for his advice, and he gave her in writing such admirable instructions, that Pollexfen and the other ablest lawyers owned better could not be given, and if any law could then be had, those instructions would certainly save him. But the Jesuits and Popish Councils were positively determined he should be hurried on to be executed with utmost speed, unless he would confess my Lord your grandfather drew him into the Plot. Upon those terms he was assured of his life; and to be sure Bishop

[1] Tillotson (then Dean of St. Paul's) and Burnet were anxious to persuade Lord Russell at the last, to disavow the right of resistance to government in any case; and they hoped that, if he would do this, the King would pardon him. Burnet led Tillotson to believe that there were hopes of Lord Russell's agreeing, and induced him to inform Lord Halifax that he might inform the King. But Burnet was mistaken, and Lord Russell could not be persuaded. Tillotson, on the day before the execution, wrote a letter to Lord Russell pressing him strongly, and telling him that, unless he renounced his opinion, that he would "leave the world in a delusion of false peace, and his eternal happiness would be hindered." Tillotson took his letter to Lord Russell, who, on receiving it, "went into an inner room, and after staying some time, upon his return told the Dean he had read the letter, and was willing to be convinced, but could not say he was so, and hoped God would forgive him if he were in error." Dr. Tillotson said he hoped so too, and soon went away." (Earl Russell's Life of William Lord Russell, p. 322.) Earl Russell makes the following very temperate comment: "It will not now be denied that the opinion which Lord Russell entertained of the duty of a subject was more correct than that of the two worthy and respectable clergymen who attended him; and his asserting that opinion at a moment so solemn, when a different conduct might perhaps have saved his life, ought to make his memory dear to every friend of freedom."

Burnet wished that as heartily as the Duke and Jesuits could do; because my Lord had been so free in reproving him for his vanity, folly, and falseness.

As for Lord Clifford he was a declared Papist, and accordingly must be with the rest, in order to defame my Lord your grandfather; the King having so just an opinion of his probity and great parts, that he often got him for several days together, resolved to follow his advice in opposition to them all; and after he had refused to accept the French Ambassador's offer, from the King of France and King of England, when he brought him a blank paper signed by both for him to make his own terms, whatever he would ask he should have, if he would not oppose the Duke of York's interest; and when they saw he despised all they could offer him, they persecuted him with all their might.

When your good uncle Lord Salisbury was dead, your grandfather was soon left alone to contend with all the powers of France, Popery, &c.,[1] which I have heard Mr. Stringer say he did to a miracle, for six weeks together, violently opposing King, Lords, and Commons, singly by himself. He argued with such strength of reason till ten, eleven, and sometimes till twelve o'clock at night, that when he got home he seemed to be quite spent, his health being much impaired by it. I was at that time in the country, at our own estate in Essex,[2] but I had this account from Mr. Stringer, both by letter and word of mouth often, and also from Mr. Hoskins, who were both ear and eye witnesses to the debates; and many times, as much as my husband was able, he would repeat most of the debates to them after he got home; and I also remember Mr. Hoskins was so astonished to hear how falsely and maliciously my Lord was aspersed and persecuted. He said it was much like the Jews' malice to our Saviour; and poor Lady Russell said she never saw any person so perfectly free from gall as Lord Shaftesbury was, for he was never in the least bitter or angry in his discourses of those wicked creatures that had been so base to him. He knew the Jesuits were the most subtle, artful creatures in the world to deceive some of the best and most substantial witnesses in the Popish Plot. When Mr. Stringer was Secretary to the

[1] Here Mrs. Hill's memory has failed her, for Lord Salisbury died in June 1683, some months after Shaftesbury's death.

[2] Bexwell, near Chelmsford.

Secret Committee for examining of the Popish Plot, one of them told him that it was a rule, constantly observed, to make choice of the most artful, roguish, cunning boys to breed up for that Order in the Church of Rome. So 'tis no wonder that so much art and pains was taken to defame so great a man and powerful an enemy as your grandfather was to them, and at a time when they had such great hopes, in all human appearance, of success. There was nothing left to oppose them, but Providence directing my Lord your grandfather to be the only instrument, for a long time, to secure the Protestant religion, and to save this nation, when both were in the utmost danger; indeed it is a very dark Providence that such a man, after all this, should ever be liable to be censured as an enemy to his country.

Can any one of the meanest capacity believe Lord Clifford, a Papist and one of the chief actors to bring in Popery, or Burnet's wicked, false, and profane history? I must own 'tis very shocking to me his calling God to witness, that he himself is a most censorious and uncharitable wretch, and to my Lord your grandfather most malicious and revengeful, for being so free in his jocular way to banter him for his vanity, folly, &c.

If Mr. Stringer was living, I am sure he would detect that History, and prove my Lord your grandfather to be the best friend and most faithful servant to his King and country that ever was, and also the best of masters.

I am very sorry I cannot tell where I have placed his Lordship's letters to Mr. Stringer. He always writ to him as if he had been his equal, calling him his very good friend in every letter; he was much pleased with him for his great probity, diligence, and indefatigable industry. The first time he employed him to finish a purchase he had before employed his brother Mr. George Cooper to make for him, of Lord Richardson;[1] it was to the value of fifteen thousand pounds, and just before the money was to be paid, Mr. Stringer discovered a horrible fraud in it. Lord Richardson could make no

[1] Lord Richardson's proper title is Lord Cramond; he was a Scotch baron, his surname being Richardson. The title of Baroness Cramond in Scotland was conferred by Charles I. on Elizabeth, widow of Sir John Ashburnham, with entail of the honour on the issue of Sir Thomas Richardson, Chief Justice of the Common Pleas, her second husband. Their son, this Lord Cramond or Richardson, represented the county of Norfolk in Charles II.'s reign.

title to the estate, and though all possible means were used to deceive, terrify, and impose upon Mr. Stringer, and also to corrupt him, they could not prevail; but he saved the fifteen thousand pounds for my Lord, which his brother had agreed to give away. This was not long before the Popish Plot began to be discovered. So my Lord then recommended Mr. Stringer to Prince Rupert, your uncle Lord Salisbury, and the rest of the Protestant Lords, and chiefs of the Commons, as the fittest person to be the Secretary to the Secret Committee for examining of it.

The Prince and Lord Salisbury conferred freely and often with Mr. Stringer, and always communicated to him, from time to time, as they discovered any new evidence of the Duke of York's being a Papist, being seen at Mass, and frequent conferences with Popish priests, nobility, &c.

Lord Salisbury was a wonderful good zealous man for his religion and country, but withal extremely reserved and shy to most people, but always open and free to Mr. Stringer, and desired for to see him often. He died of a fever on his spirits. Dr. Sydenham was his physician, and Mr. Stringer often begged him to do all in his power to save him; and the Doctor told him if he could cure him of thinking too much of the danger the nation was in of Popery, &c., he could cure his fever; but he laid that danger so much to heart, that he lost his life for it, and Mr. Stringer used to say he died a martyr for his religion and country.[1]

[1] The copy of this letter at St. Giles's is without signature.

END OF VOL. II.

LONDON :
R. CLAY, SONS, AND TAYLOR, PRINTERS,
BREAD STREET HILL.

00023652

Digitized with financial assistance from the
Government of Maharashtra
on 18 July, 2018